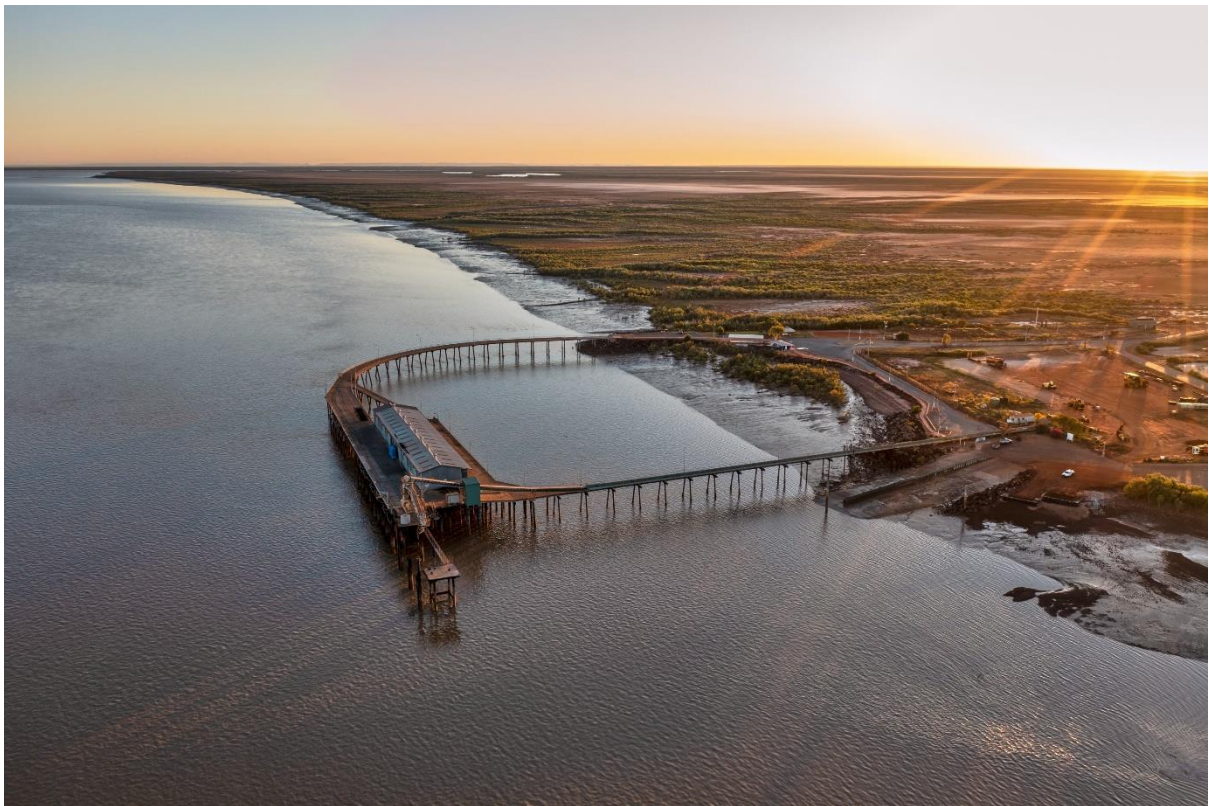


# Derby Port Precinct

## Masterplan (2022)



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## EXECUTIVE SUMMARY

This Masterplan is designed to study and draw out the strategic issues prevailing at Derby Port, and to put the Council of the Shire of Derby/West Kimberley in the best position possible for it to then make the judgements required of it on behalf of the district.

The Derby Port and its Jetty is a “wicked issue” for the Council to deal with. There are considerable benefits to be potentially gained by holding the lease and managing the port, but those benefits come with risks, which the Council needs to understand and consider.

Future assessments of the wisdom of this Council’s decisions in regard to the Derby Port will be able to be made with the “arrogance of hindsight”, but today’s Council does not have that luxury. Today’s Council for example, has decided to commit to expending the ratepayer’s funds on meeting the annual operational deficits of Derby Port, using the justification that current and future economic development returns will provide a nett benefit to the district.

The Shire of Derby/West Kimberley is a strong supporter of the use and expansion of the Derby Port Precinct, but this support has thus far come at a considerable financial cost to the Shire’s ratepayers, with the port having operated at an annual loss for many years. There has undoubtedly been some economic, tourism, and community benefit already gained from the Shire controlling the Derby Port, and there is the potential of more gains in the future, but there has been limited attempts to quantify those nett positions thus far and a study along these lines to best guide the future decision making of Council is recommended. Such a study would provide Council with valuable information from which it could then comprehensively justify to the ratepayers, “the nett value of funding this loss”.

The Derby Port has the potential, in the right economic and political climate, to provide a valuable dividend to the district, but there are considerable legal and financial risks for the Shire and the Council as neither has a strong understanding of the Shire’s head-lease commitments, or its legal and other port management responsibilities. Operations have been set (in light of the ports continuous annual loss positions) at “minimalist and affordable levels”, rather than being at best practice standards. Forging a professional management arrangement with Kimberley Ports Authority to reduce Council’s and the Shire’s risk levels, and ensure the Derby Port operates at its most cost effective and best risk managed, is one option worthy of consideration.

The Masterplan promotes that Council should focus its efforts on retaining the port, but that its decision making process should be based on a thorough understanding of the risks and benefits that are relevant at the time those decisions are made. This Masterplan therefore provides “primary recommendations” (2 of), that should be addressed in the first instance and prior to the “secondary recommendations” (50 of) being initiated.

The benefits that can be achieved through this Masterplan are:

- firstly, an improved Council and Shire understanding of the risks and benefits of the leasing and operations of the Derby Port; and
- secondly, (1) potential for improved local economic viability, employment, and tourism activation, and (2) safer and less risky port operations, with improved financial, asset, and recreational facility management.

## RECOMMENDATIONS

The following recommendations are made as a consequence of this report:

<b>PRIMARY RECOMMENDATIONS</b>	
December 2023	1. To understand the Shire’s expected longer term financial commitments, undertake a <i>Financial, Commercial, and Economic Viability Analysis</i> of the Derby Port. Analysis to include a detailed study of the long term economic potential and consequential financials for the Port Precinct (including for example, the competition risks of Warburton/Ace proposal). Noting that this study can be funded from the Kimberley Mineral Sands “FID payment” if necessary; and
March 2024	2. To ensure continued professional and safe port operations, contract a port management service/dedicated Shire personnel, to work with Council and existing on-site port management expertise employed by the Shire.
<b>SECONDARY RECOMMENDATIONS</b>	
<b>Time-line</b>	<b>Head Lease</b>
Now and Ongoing	1. To maintain an awareness of State policy as it relates to Derby Port/Jetty, maintain a close liaison with the Department of Transport and the Kimberley Ports Authority;
July 2023	2. To best enable local economic development, seek to have a SDWK Shire Councillor representative on the Kimberley Ports Authority Board;
2030	3. To strategically manage competition and changes in the user environment, undertake a strategic assessment earlier than 2030 if the Warburton/ACE land backed port is promoted for construction;
2030	4. To ensure long term benefits for the Shire, in 2030, undertake a strategic assessment of the Derby Port for the period post 2040 (in consultation with Kimberley Ports Authority (KPA) and Kimberley Mineral Sands (KMS) [as per the Port User Agreement]), with the view to either a Head Lease extension, or a post 2040 transition plan to KPA over-sight (for example, continue as fully operational jetty, or continue on a lower cost scale/low impact jetty for tourism based use only);
<b>Sub Leases</b>	
Now	5. To obtain long term “anchor tenant” port revenues, continue to work with Kimberley Mineral Sands and other stakeholders to ensure that KMS exports its mineral products from the Derby Port;
June 2023	6. To ensure that the Derby Jetty can best provide for economic development and operate in a financially responsible manner, seek to modify the Warburton/ACE Agreement (with its proposal for a competing port facility) so that if an extension of the Head Lease can be secured, that any future Warburton/ACE agreements/leases are with the Shire, and not the state government/Kimberley Ports Authority;
Now and Ongoing	7. To maximise financial returns and to optimise overall port land utilisation, review lease payments and lease land area boundaries of sub-leases across the port precinct, as leases are renewed;

<p>Now and Ongoing Now and Ongoing</p> <p>June 2023</p> <p>Review in April annually</p> <p>June 2023</p> <p>2030</p>	<p>8. To continuously work towards achieving the goals of the Shire’s long-term port strategy, manage all Derby Port leases consistently;</p> <p>9. To protect the Shire from risks, ensure all new/extended sub-leases adequately accommodate and “pass on” Head Lease risks placed upon the Shire;</p> <p>10. To facilitate the potential of an additional revenue stream through the re-leasing of the old BP sub-lease site, utilise funds in the Shire’s Creditor’s Account associated with this site, to undertake remedial works (and then advertise the site for lease);</p> <p>11. To meet Local Government Act requirements, consider the appropriate form of tenure for the long term use of commercial boat trailer spaces (lease or license) – endorsed by Council via resolution of 24 February 2022;</p> <p>12. Enter into a formal Licence Agreement for the use of, and maintenance of, the Barge Access Facility;</p> <p>13. To maximise the Shire’s capacity to offer commercial lease periods for significant developments, like the Warburton/Ace Port proposal, seek to have a new/extended head-lease, out to the longest possible date (99 years);</p>
<b>Financial Sustainability</b>	
<p>Review in September annually</p> <p>Now and Ongoing</p> <p>Now and Ongoing</p> <p>2030</p> <p>June 2023</p> <p>Review in June annually</p>	<p>14. To minimise port operating expenditure, work with the Shire’s insurers and other stakeholders to minimise insurance premiums, maintain the potential of a transition from “Replacement” to “Removal of Debris Only” insurance where that is achievable (note: endorsed by Council via resolution of 25 November 2021 and incorporated as an option in the KMS lease);</p> <p>15. To maximise the financial viability of the Derby Port:</p> <ul style="list-style-type: none"> <li>a. promote to potential users as opportunities arise, the opportunity for port access; and</li> <li>b. ensure Derby Port fees and charges are comparable with the levels set for the Broome Port by the Kimberley Ports Authority;</li> </ul> <p>16. To obtain a fair commercial return, set commercial lease fees and their maximum valuation point, and in particular to consider that potential upon the leases’ commercial review period becoming due, and also upon any sub-lease renegotiation;</p> <p>17. To facilitate the ongoing financial capacity of the Shire to manage and service the port/jetty post 2040 and/or post Warburton/ACE land backed port construction, discuss with KPA a capacity for a port maintenance fee to be charged on the Shire’s behalf, for import/export tonnage;</p> <p>18. To best show the cost to ratepayers, initiate a Derby Jetty Rates Levy, to raise funds specifically for the funding of Derby Port’s annual operational losses, and Derby Jetty asset management;</p> <p>19. To reduce debt, use the Kimberley Mineral Sands revenue stream to pay down the “Port component” of the Shire’s Loan #152 (Derby Port and Airport – balance outstanding of approx. \$1.5m in total);</p> <p>20. To prepare financially for Kimberley Mineral Sands’ international exports that the port will be responsible for, “ring-fence” funds received from KMS to meet any new higher level operational expectations, like new licenses, or higher standard assets/operations/security, etc.;</p>

<b>Asset Management</b>	
Now	<p>21. To maximise port asset sustainability and best maintain the Derby Jetty and associate infrastructure, and to comply with Head Lease requirements, Council to:</p> <ol style="list-style-type: none"> <li>a. reinforce its Asset Management Policy (F2) by “ring-fencing” funds achieved from the Kimberley Mineral Sands lease revenues to meet those asset management policy expectations;</li> <li>b. seek from the Kimberley Ports Authority, a detailed long term Jetty asset management program for the Shire’s consideration;</li> <li>c. seek out Government capital refurbishment grants provided for local government assets;</li> <li>d. seek out Government “special grant” contributions in light of the Head Lease’s “fair wear and tear” exception, and the royalties earned by governments through the port’s export capacity; and</li> <li>e. provide a dedicated fund available for port asset management by establishing a Derby Jetty Asset Management Reserve Fund (to be credited with any port operational surpluses, and the “Derby Jetty Rates Levy”);</li> </ol> <p>22. To best provide for asset longevity, build in increased service level redundancy where possible, and particularly when future applications for increased service levels are submitted by developers (so as to reduce the Shire’s requirement to meet capital upgrade costs - e.g. reticulated power supply);</p> <p>23. To best understand the asset management needs of the jetty, ensure regular Condition Inspection Reports are undertaken;</p> <p>24. To enable assets to be refurbished in the most appropriate priority order, liaise with KPA, KMS, other port stakeholders, and prioritise port infrastructure refurbishments, including Jetty Road;</p> <p>25. To minimise Shire expenditure levels, yet still address in a timely manner, asset management within the port precinct, lobby the State Government to have Jetty Road transferred to Main Roads’ WA (so that the WA State Government becomes responsible for this road);</p> <p>26. To provide strategic direction for port asset management, ensure the Shire’s Asset Management Plans and its Long Term Financial Plan includes adequate provision for short and long term jetty/port precinct asset management requirements;</p> <p>27. To meet port standards of thoroughfare construction, define and reconstruct roads and other thoroughfares within the port precinct;</p> <p>28. To minimise jetty stress (and asset management costs) impose heavy vehicle restrictions by informing large truck operators (e.g. fuel deliveries) that trucks larger than RAV10 will not be permitted to access the jetty structure after 30 June 2023 without specific approval from the Director – Technical &amp; Development Services;</p> <p>29. To reduce asset management costs, and if circumstances justify such an outcome, look at the option of decommissioning any practical portion(s) of the Jetty;</p>
March 2023	
March annually	
March annually	
June annually	
Review at each development consideration	
December annually	
April annually	
Now	
March 2023	
October 2023	
June 2023	
2030 and ongoing	
<b>Port Management</b>	
October 2023	<p>30. To enable (for example) better land planning, safe transport/pedestrian routes and maximise leasable areas, develop a detailed ground use and precinct boundary plan for the Port so that it clearly defines and formalises the various areas (e.g. defined area</p>

December 2023	long term boat trailer parking bays, lease area boundaries, transport routes and turning areas, barge loading restriction areas, and pedestrian zones, etc);
December 2023	31. To ensure workable port operations prevail work with KMS on the operational and strategic requirements to implement the Port User Agreement, and to address consequential impacts on other port users (e.g. MPA lease operations, barge and recreational boat launching/retrieval);
March 2024	32. To provide for the safe use of the Barge Loading Area and to minimise conflicts with recreational fishers and tourists, improve the management of that process, including use of signage and road surface lines;
March 2024	33. To provide the lowest risk and highest service level for recreational boat users and the Derby Volunteer Marine Rescue Service.
March 2024	a) Study and then address the “Back Boat Ramp” facility so it can provide a reliable long term boat launching/recovery service;
March 2024	b) Review the location and number of recreational boat ramps (noting the KMS’s conveyor and ship-loader location, and the 10m “extended licenced area”) and seek grant funds to assist with that cost (Shire to fund its portion from new KMS port revenues). New recreational boating ramp to consider inclusion of floating walk/boat guiding platform on side of ramp.
Ongoing	c) To minimise costs, and if practical, there should be a preference of only having one recreational boat ramp;
March 2023	34. To promote tourism and pedestrian access to the jetty, maintain <i>Jetty Walk</i> (or a similar facility) for dedicated bicycle and pedestrian access;
2030	35. To ensure suitable levels of road user safety, review Jetty Road’s capacity for bicycle and pedestrian access (with the view to specifically providing for it with dedicated pathways, or banning it);
March 2024	36. To allow safe access in most weather and tidal conditions, study the potential of a groin;
March 2024	37. To have contemporary operational practices in place, undertake a review of all relevant Port Management Procedures and Plans (e.g. dangerous goods, OSH, loading/unloading practices, barge loading/unloading, drainage, environmental, marine safety, conflicts of use/risk, etc.) in consultation with KPA;
Now	38. To maintain land planning control (including when the Head Lease eventually expires):
2030	a) ensure Town Planning Scheme provides adequate opportunity for Council input to port developments; and
	b) discuss with KPA, potential for the Shire to have input into third party lease conditions post 2040;
<b>Economic Development Opportunity</b>	
March 2023	39. To locate potential economic development opportunities:
Now and Ongoing	a) partner with KPA to undertake a port economic study to understand the potential opportunities for Broome and Derby;
Now and Ongoing	b) promote locational and cost advantages for off-shore servicing from the Derby Jetty;
Now and Ongoing	40. To discourage land-banking, include “protective and penalty clauses” in any new sub-leases the Shire might be a party to, or that Kimberley Ports Authority might facilitate, to ensure development occurs within a reasonable time-line;

As developments considered	41. To compensate the Shire for its costs, develop an understanding of cost implications on the Shire for new leases and new port developments by private developers;
As developments are submitted	42. To best compensate the community, consider the disruption that might occur to local facilities (e.g. Volunteer Marine Rescue); and services (e.g. recreational boat ramp) when considering development proposals, and how that disruption might be best accommodated;
2030	43. To best understand the potential impacts on the Jetty's financials of new port developments (vis. a development drawing away paying commercial clients of the existing jetty) require that developers fund an independent economic analysis for Council, as part of their development/lease application;
Now	44. To enhance local and tourist enjoyment, work towards securing a replacement café/restaurant on the jetty itself, possibly built into the existing jetty sheds (and utilise itinerate food vendors in the interim). Coordinate any café/restaurant lease arrangements with KPA for pre and post 2040 Head Lease period;
Now	45. To improve tourism potential:
2030	a) make contact with the several Kimberley Tourist Boat operators, with the view to including a tourist boat stop-over; and
Annually and Ongoing	b) make contact with the several Kimberley Road Tour operators, with the view to including a tourist bus stop-over in Derby and an evening dining event at the Jetty;
	c) lobby State and Federal Governments to fund an Aboriginal Cultural Centre/Art Showroom on or near the jetty (could include a restaurant/cafe);
	d) regularly budget (and leverage up these projects by seeking out grants funds) for improved family friendly facilities (e.g. BBQ's; fishing areas; grassed areas; event areas; etc);
<b>Community and Stakeholder Management</b>	
August 2023	46. To better ensure there is a timely and regular information flow, and particularly with the key port precinct stakeholders, a stakeholder management plan be developed to ensure good ongoing two-way communication is occurring;
Now and Ongoing	47. To ensure good public awareness of the port's activities, prepare a regular port update. This could occur through the normal community information channels already well utilised by the Shire;
June annually	48. To promote the area and reinforce its availability to the local community, arrange occasional local events and ceremonies through existing community services resources;
Now	49. To maintain appropriate levels of community access for recreation, fishing, tourism, boating, etc., use the information gleaned from the Community Strategic Planning Process;
Now and Ongoing	50. To promote the requirement for suitable development considerations as part of any port based development (e.g. environmental reviews of the potential for silting resulting from excavations) maintain good communication links to relevant state bodies like Planning, Transport, and Environmental Agencies.



## PURPOSE OF MASTERPLAN

In order to maximise export opportunities, including bulk mineral sands, a Derby Port Precinct Master Plan is required, which will provide the detailed integration planning for the co-location of enhanced port infrastructure, landside logistics, tourism offerings, recreational fishing and local social activities within the same precinct. The Masterplan will provide a consolidated management strategy recognising the ecological, cultural and recreational values of the area and support shovel ready projects.

The Masterplan is a strategic document for the Shire of Derby/West Kimberley Council's consumption. It will provide:

1. an outline the history of the port precinct;
2. a link to the Shire of Derby/West Kimberley's Community Strategic Plan and Corporate Business Plan;
3. a means for Council to best consider the future planning of the area; and
4. facilitate stakeholder understanding of the strategic direction taken by the Council.

The Masterplan will include enhancement proposals and land assembly considerations. For example, foreshore enhancement and landform changes, improved boat ramp facilities, tourism facilities, parking, and road access.

As the Masterplan provides a consolidated management strategy recognising the ecological, cultural and recreational values of the area, it is envisaged that subsequent developments (e.g. a "Cultural Interpretive Centre") will encourage increased tourism opportunities across the region and provide considerable development of local and regional Aboriginal employment and engagement.

The Shire's proposal for funding to the State Government in October 2020 included the following statement *"A business plan and survey for refurbishment works on the jetty are vital due to the age and current maintenance costs of the infrastructure. Refurbishment works are estimated at between \$12m and \$24m contingent upon the nature and anticipated industrial life of the jetty. The refurbishment works will be shovel ready on completion of the survey and gaining funding for the refurbishment. A formal investment decision by the proponents for the Derby Port Basin project could see the jetty converted for social, recreational and tourism purposes into the future, noting this infrastructure integrates with other projects such as the floodlit heritage walk across the Derby mudflats which includes interpretive signage of the history of the port."*

This Masterplan provides a strategy to ensure that the Port remains viable in the short-medium term and does not act as a "brake" on projects such as the Kimberley Mineral Sands Project, which has the potential to become a major local employer if the bulk handling export facilities are activated. The project also establishes the foundation for further private investment, including supporting proponent access to Northern Australia Fund funding.

## HISTORY

The construction of the first Derby Jetty (102 foot long and built of wood) was completed in 1885 to partially overcome difficulties presented by a 11-metre tidal range. It was replaced with the unusual horse-shoe shaped concrete and iron, piled “above water” jetty (costing £1m) in 1964 to provide facilities for the export of cattle.

The Derby port has enjoyed numerous significant local development initiatives over many years, like the Kimberley gold rush, iron ore mining, pastoral imports and exports, fish farming and tourism. For example, beef cattle from the Fitzroy River valley and Wunaamin Miliwundi Ranges were transported to slaughterhouses in Derby and then shipped along the coast from the Derby port, which was then the major port for the cattle of West Kimberley. It was closed in the 1980’s before being reopened in 1997 for the export for lead and zinc concentrates, via barges that would berth at the jetty. The Derby Jetty has therefore played a pivotal role in the development of the Kimberley region of WA.

The Shire of Derby/West Kimberley has more recently (1998) assumed responsibility for the port and barge ramp facilities, to ensure they remained open to commercial use, tourism, and local recreational pursuits, by taking out a Head-Lease with the WA Department of Transport. Those leases runs until 2040 (for the jetty) and 2038 (for the barge ramp). The Shire is understood to be the only WA local government that manages a fully commercial port facility.

The current condition of the jetty is considered to be *“poor, but structurally sound for current uses and loads”* and due to the relatively low commercial volumes that progress through the port, the chargeable fee receipts mean that facility has operated at a financial loss of several hundred thousand dollars a year for many years. In the last couple of years, there has been significant attention given to improving the Port’s operational and financial management and the following has occurred:

- Improved port practices have been introduced, like better lease management and formalising boat/trailer parking;
- Staffing structures and duties at the port have been fine-tuned to be more efficient;
- Fee structures have been reviewed to ensure they are competitor consistent;
- Wherever possible, sub-leases have been modified to require sub-lessees to take their share of responsibility for Head Lease commitments placed upon the Shire;
- Insurance changes for the jetty are being reviewed, with the view to achieving savings in insurance premiums (≈\$250,000pa) by moving from “Replacement Value”, to “Removal of Debris” only policy cover; and
- The Kimberley Mineral Sands/Thunderbird Sub-Lease has been renegotiated to provide a much more favourable financial outcome for the Shire.

The port still presently operates at a financial loss, but if Kimberley Mineral Sands utilises the port for its exports, it should operate at break even (and hopefully better). If the Warbuton/ACE land backed wharf becomes a reality, it will provide significant economic stimulus across the region but it is also anticipated that this new port facility will have a significant detrimental impact upon the Shire’s jetty financials. At that point the jetty will be at risk of being redundant for the servicing of current and near future industry requirements. Ongoing repair and maintenance costs up until the 2040 Head Lease expiry will be containable if the jetty is only used for pedestrian activities, and not for large commercial vehicles, otherwise it will return to being a substantial impost on the Shire of Derby/West Kimberley.

## ENVIRONMENT AND GEOGRAPHIC LOCATION

The Derby Jetty is located in the second highest tidal range precinct in the world, with tides in the vicinity of 11 metres on occasion. It also sits in a cyclone area.

These two factors make the jetty design (on piles above water) and its risk of environmental damage very high. Construction and maintenance costs can be expected to be higher than in less harsh environments. The annual insurance fee is one reflection of this, which is about \$350,000pa (although the current Kimberley Mineral Sands lease has the potential to address the short/mid term cash flow issue that this causes).

The jetty's impact on the local environment other than the above, is not of significance, and this is reinforced by recent decisions of the State's Environmental Protection Authority, deciding not to require an environmental assessment for a recent barge development application.

There are several sub-lease areas within the Derby Port Precinct that could contribute to environmental risk. Sub-leases have specific clauses addressing this, but there is an area where commercial boat businesses have historically undertaken maintenance and refreshments on their boats/boat trailers, without any direct Shire supervision or control. Access and use of this boat/trailer parking area (see indicative plan below) is now managed by the Shire and so any historic activities that might have been sub-optimal from an environmental perspective, have either been eliminated or are now managed through a formal licence agreement.



## LAND USE AND HEAD LEASE

The Derby Port precinct land is Crown Land. The Shire of Derby/West Kimberley holds two current Head Leases with the WA State Department of Transport for the Wharf and Barge Ramp (these two head leases expire in 2040 and 2038 respectively). The Shire only has the ability to offer sub-leases out to 2040 (vis. sub-leases cannot exceed the term of the head-lease).

The Head Lease provides a broad usage potential by stating that the facility's Permitted Use is for *"the business of operating a port facility and associated uses, including any commercial use which is complementary to the operation of the Port and which does not endanger marine safety, or any other use which the Lessor may, from time to time, approve"*. This is further refined by stating that facilities can be used for any purpose, *"except for any purpose other than that for which they were constructed"* and that the Shire *"cannot use, or permit the use of the Premises, for any purpose other than the Permitted Use or for any purpose which is not permitted under any Act or by any Authority without the consent of the relevant Authority."*

The Shire's Interim Development Order No 9 ('IDO No.9') applies to the Derby Port Precinct.

As a blanket planning control, most land uses under IDO No.9 require planning approval with the exception of\* the classes of development as defined in Clause 6 as follows:

- a) Development by public authorities for the purpose of their undertaking or functions on land owned by them at the time of coming into operation of this Order;
- b) Construction, reconstruction, repair and maintenance of roads, pipelines, service mains, sewerage and drainage lines by public authorities on any public road way or reserve or on any reserve or easement established for the purpose;
- c) Extensions of or alterations, renovating or maintenance to existing buildings within the curtilage of the land on which such buildings stand provided that the floor space of any such buildings or group of buildings is not increased without prior consent of the Shire of Derby/West Kimberley Council;
- d) Buildings and land uses associated with the pastoral industry;
- e) Buildings and land uses associated with the mining industry;
- f) Construction, extension of any single residential dwelling that is consistent with an approved Layout Plan; and
- g) Construction, or extension of a single residential dwelling that is consistent with the approved Fitzroy Futures Town Plan and the Residential Design Codes of Western Australia.

\*Note: the permission of the Derby Port Lessor (the Shire) is also required for a development, but that power would not be expected to be used differently to the Council's powers under IDO No.9.

## PORT PRECINCT MAKE-UP

Wharf Facilities	The Derby Wharf has been reconstructed a number of times over the past 120 years. Ongoing and timely maintenance is required and a Lease Lease commitment. Kimberley Mineral Sands will maintain the southern abutment area as part of its lease, should it utilise the Derby Jetty for exports.
Jetty Road	Jetty Road is a two lane bitumen road, built for port use, but it is now at the end of its useful life. Its current condition is poor, but can still accommodate the present uses of the port. It should be reconstructed as soon as possible to ensure it can continue to provide the service level required of it (or preferably, reclassified as a main road and transferred to Main Roads WA).
Port Transportation Thoroughfares	The Port's internal hardstand areas and thoroughfares were built for port use, and can still accommodate the present users of the port. Their standard needs to be monitored, with reconstruction to occur on an "as required" basis so it can remain at "fit for purpose" standard.
Barging Ramp Area	The existing barging ramp area is of rock and gravel construction. It is steep and exposed to extreme tidal and wave action. This translates into extremely hazardous situations, as the regular high and fast moving tides make manoeuvring difficult. This is exacerbated when there are unfavourable winds causing dangerous waves. These conditions are unsafe and limit the times per month that barges can safely land and depart for this site. Therefore it is considered that the current arrangement needs to be changed. Construction of a new Barge Ramp in a different location is needed.
Recreational and Commercial Boat Launching Ramps	There are two recreational boat launching sites. The main site faces west into King Sound, immediately on the southern side of the wharf abutment. The smaller site faces south into a tidal creek, which also flows into the King Sound. The main recreational ramp immediately south of the wharf abutments is constructed of concrete. This ramp can only be used safely when the tide is higher than 3.0 metres and providing a north westerly or westerly wind is not blowing. While its condition is of concern, its exposed position, the cross flow caused by incoming and outgoing very high tides (including 11+ metres), and the added effect of wind borne waves, is both difficult and hazardous for the launching and retrieval of boats. It is not unusual for people to have to hold the boat in the water during such launchings and retrievals, and this is a major safety issue (not least of which is that the area is prone to be inhabited with crocodiles!).
Tourism and other User Facilities	Public toilets are in good condition. The old restaurant has been demolished to make way for a "casual eating area" that will ensure that this area remains suitable for tourists and local community members to enjoy (although that should not restrict the potential of a more significant restaurant facility, potentially on the jetty proper, being promoted as longer term goal).
Public Access Jetty Area	The northern portion of the Derby Jetty has good access for the public, with the commercial areas of the port barricaded off. There is minimal stress on the structure caused by this use but general maintenance is still required going forward.

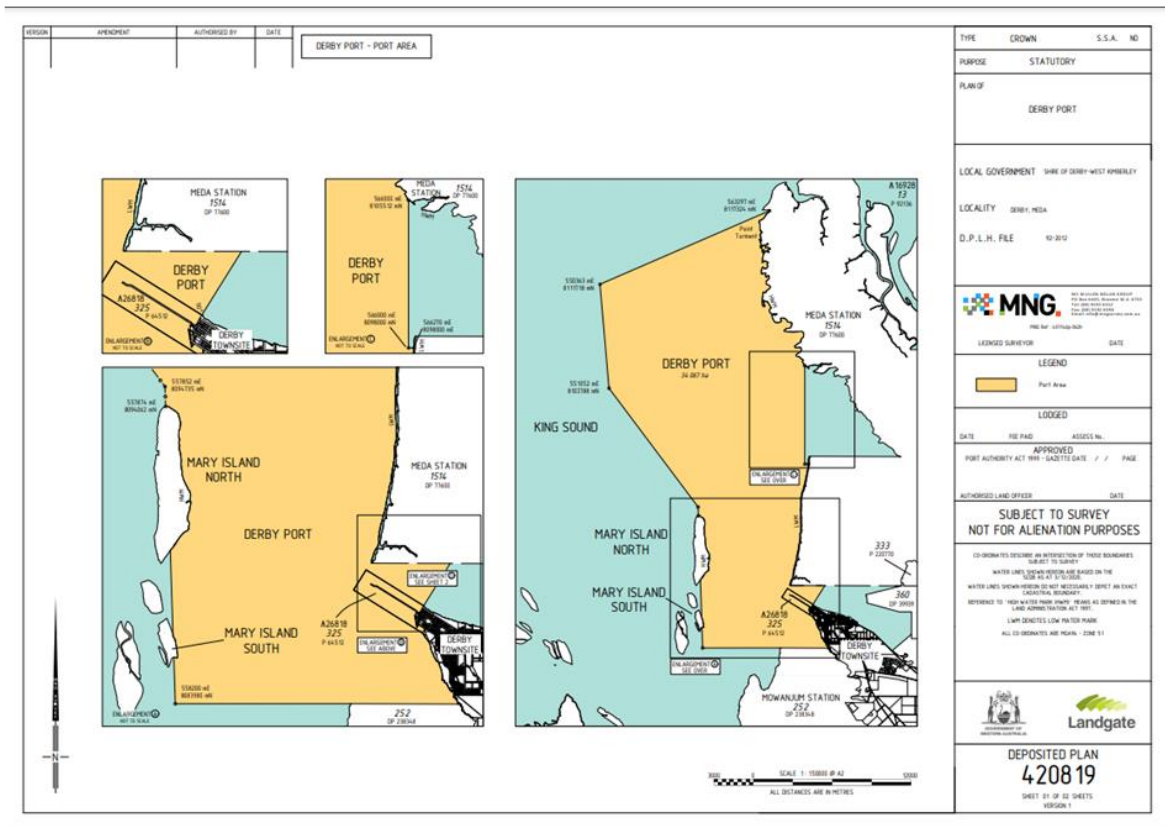
## STATE GOVERNMENT POLICY POSITION

Kimberley Ports Authority (KPA) operates under the auspices of the Port Authorities Act 1999 which covers vestment of the port land and waters; and a range of obligations from trade development, infrastructure planning and maintenance, to caring for the environment and ensuring safety.

The Port Authorities Act 1999 sets out (S.30 Functions) the functions of a port authority, which are generally to:

- (a) facilitate trade and plan for future growth and development of the port;
- (b) undertake, arrange, encourage, and facilitate the development of trade and commerce;
- (c) control business and other activities in, or in connection with the port;
- (d) be responsible for the safe and efficient operation of the port; for maintaining port property; and for port security;
- (e) protect (and minimise the impact of operations on) the port environment;
- (f) operate for profit; and
- (g) do things that its board determines.

KPA and the Shire of Derby/West Kimberley work together to develop and grow the use of the port as trade opportunities arise.



## RISK ANALYSIS

Whilst at a strategic level the above goals are all potentially possible, a risk analysis of the Derby Port Precinct has drawn out the below more significant risks that need to be accommodated in the process of achieving the benefits listed above:

CRITICAL RISKS	DETAILS
Shire's Financial Sustainability	<ol style="list-style-type: none"> <li>1. Large number of adverse financial impacts (e.g. Jetty asset management, new road and hardstand infrastructure; boat launch facilities; loss of lease/port incomes; recreational and tourism infrastructure provision and maintenance; etc.);</li> <li>2. Ratepayer subsidisation of the Port's operational losses.</li> </ol>
Risk and Indemnity	<ol style="list-style-type: none"> <li>1. Geographic location, type, and construction of wharf is high risk and expensive.</li> <li>2. Shire's consequential risk due to occasional "user self-managed" style of some port users.</li> </ol>
Community Access	<ol style="list-style-type: none"> <li>1. Retention of recreation and tourism access and opportunities is not formally provided for.</li> </ol>
Head-Lease and Sub-Lease Arrangements	<ol style="list-style-type: none"> <li>1. Head Lease concludes in 2040, which limits the Shire's capacity to offer longer term commercially viable sub-leases to third parties, and to influence outcomes at the Port Precinct.</li> </ol>

## COMPETITOR ANALYSIS

Past reviews have outlined that:

*The crucial area of competition is the transportation of goods. Long haulage distances and high transportation costs can affect the viability of a business venture, particularly the mining industry. The lack of capability of the Derby Wharf to be able to cater for the short transport needs of a number of mining companies who have been interested in shipping their minerals overseas has been to the detriment of the both the Wharf's operations and its finances, as well as working against the region having additional mines brought into production. This has deprived the region of additional employment opportunities and the supplying of other goods and services.*

*The competitors to the Derby Wharf are the Broome port, 430 kilometres by sea to the south, and the Wyndham port, 1,007 kilometres by sea to the north east. These distances can prove to be prohibitive as they add significantly to the export costs, or even to the transport of supplies, including to remote aboriginal communities, many of which are scattered along the western Kimberley coastline. Further, the Broome port is not currently structured to cater for minerals exports and it has also begun to receive Cruise Ships, which may not be compatible with a mineral exporting port.*

These past reviews have concluded that there should be sufficient demand at each of the ports such that their respective viability would still be intact, given good management practices.

The Shire of Derby/West Kimberley has operated the port at a loss for many years, partly because volumes do not permit for charging to occur at a sufficiently high enough levels to enable a profit to be enjoyed, and partly because Council has historically signified that it does not wish to make either substantial profits (or losses if that can be avoided) at the Derby Wharf. The reason for Council wanting an involvement with the port is for the long term benefit of the community and the local economy.



## **MILITARY SIGNIFICANCE**

Being one of the closest designated towns on the mainland of Australia to the islands of Indonesia, Derby has strategic military importance. This was demonstrated during the Indonesian confrontation of the early 1960's which prompted the Federal Government to fund a major reconstruction of the Derby wharf. Notwithstanding the above event was 60 years ago, the construction of, and continuously operational Royal Australian Air Force forward defence facility of Curtin Air base reinforces this historic point.

The Derby wharf is located within close proximity of Curtin, which can cater for all RAAF aircraft and would be quickly utilized when needed. The Derby port is located only 40kms to the west of Curtin base. A fully operational port and barging facility would enable the timely transfer of supplies to any offshore operations or activity. Further, it would allow for the rapid movement of supplies, personnel and equipment from larger craft to land where needed.

Defence of energy infrastructure and production facilities is also important. Development of major gas production facilities immediately to the north of Derby (Browse Basin) is an example of this. Gas refining and transfer facilities, pipelines and other mineral production infrastructure are examples of major structural assets which have the potential to present major security consideration for the nation, and Defence.

Having fully operational major infrastructure facilities (wharfs, airports/air bases) in place has the potential to overcome and provide solutions to these logistical impediments and relative to this, the Australian Government announced in early 2022, that the upgrading of defence infrastructure at Curtin will occur in 2024, and depending on global risk assessments, additional personnel and infrastructure might be required at Curtin, as well as across the Kimberley and the Pilbara.

## **TOURISM AND RECREATIONAL PURSUITS**

The Derby Port Precinct is an iconic tourism draw-card and this includes the significant tidal movements that the area experiences – often referred to as the “King of all Tides”, these are significant tourist attractions given that the king tide experienced at the end of April each year is one of the biggest in the world. Many local and international travellers visit the town to see this natural wonder.

The area is also a regular attraction for local residents, to fish, watch the sunset, enjoy with their friends, or gain some respite in the evening on hot and humid days.

## **MINERAL EXPORTS**

There is an opportunity to add value to local mining activities as Derby Port could be used to both enable supplies to come into the area, as well as mineral exporting to occur from the port. If profitability can be reasonably assured, it can be expected that there will also be permanent employment positions sourced from the Derby township, which would further benefit the town through the multiplier effect upon other business sections in the township.

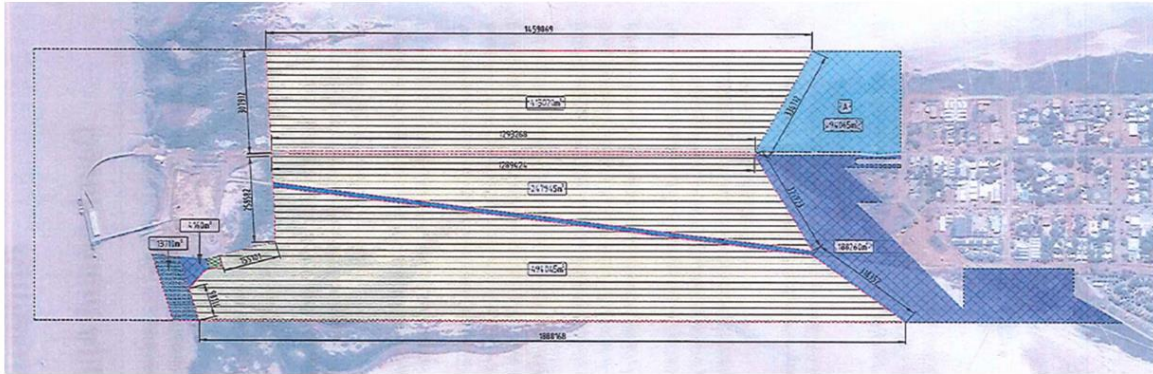
There have been large and active mines operating in the district in the past, and there is regular interest shown to recommence or establish mining within the district, however the structure of the Derby Port can require “double handling” of bulk product via the use of barges, thus forcing an added cost of operations not always relevant to other competitor ports.

## **EXISTING SUB-LEASES**

The Head Lease provides the opportunity for the Shire to enter into sub-leases with third parties (with the permission of the Department of Transport). There are numerous sub-leases in place, namely:

- Warburton/ACE;
- Colonial Marine Consultants (CMC);
- Marine Products Australia (MPA);
- Kimberley Mineral Sands (previously Sheffield Resources, Thunderbird);
- Derby Volunteer Marine Rescue;
- Long Term Boat/Trailer Parking (annual Licences, not Leases);
- Mary Island Fishing Club (adjacent to Derby Town-site);
- West Kimberley Fuels (adjacent to Derby Town-site – expired and vacant presently);  
and
- Wharf Restaurant (lease expired and presently a Casual Eating Area).

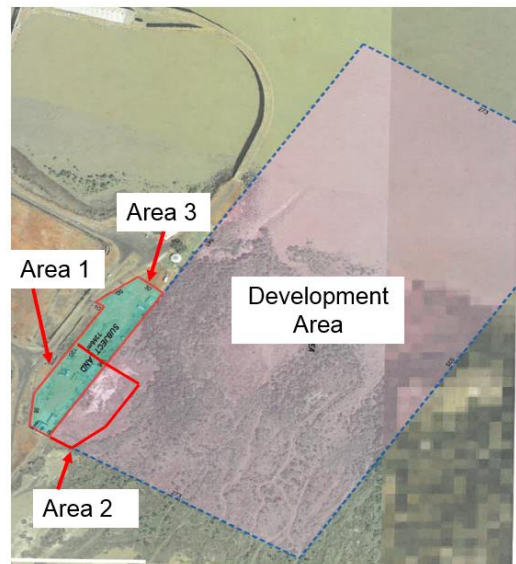
- Ace infrastructure/WPGL Property (Part of the Warburton Group)



**Colonial Marine Consultants (CMC) Plus entity Derby Marine Base (DMB) a subsidiary of CMC**



- CMC had a lease and a MOU covered the “development area”
- Currently on a month-by-month tenancy.



## Marine Products Australia (MPA)



- Lease Area 2
- End Date – 30 June 2023
  
- Area 3
- End Date – 30 June 2023



## Sheffield Resources, Thunderbird



- End Date – 28 June 2040



## Derby Volunteer Marine Rescue (DVMR)



End Date – 1 February 2030



## Boat Trailer Parking Area



- Lease Term – Annual to 30 June



## Mary Island Fishing Club



- **Lease Area 1**
- Lease Term - 10 + 10 years
- End Date – 30 September 2031
  
- **Lease Area 2** (Not taken up at this point in time)



## West Kimberley Fuels



Expired



## Derby Wharf Restaurant vacant

- Vacant, converted to casual area for the present time



## LOCAL GOVERNMENT LEGISLATION

The Local Government Act 1995 at S. 1.3 outlines that its intention is to result in:

- (a) better decision making by local governments; and
- (b) greater community participation in the decisions and affairs of local governments;  
and
- (c) greater accountability of local governments to their communities; and
- (d) more efficient and effective local government.

and, in carrying out its functions, a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Local Government Act at S. 2.7 outlines the role of Council, which is to govern the local government's affairs and to take responsibility for the performance of the local government's functions. This includes overseeing the allocation of the local government's finances and determining the local government's policies.

Local Government Act S. 3.59 requires a local government to prepare a Business Plan before it commences a major trading undertaking or a major land transaction (includes a lease). The minimum amount for a major trading undertaking is \$250,000 or 10% of Shire's operating expenditure.

A National Competition Policy Assessment is required when a service or a Business Unit has annual income in excess of \$200,000 per year. Whilst the Derby Port exceeds this limit, a fresh assessment is considered to only be required in the event of a major port investment being proposed by the Shire, or a new Head Lease term being considered.

It is rare for a local government to operate a port facility and no other local governments in Western Australia are known to have such a business unit within their operations. The Shire is required to manage the Port in accordance with the Head Lease, all of the legislation relevant to a local government, as well as other legislation relevant to operators of a port.

The Shire's employees do operate the port in an efficient manner, and endeavour to ensure that the port does operate in accordance with relevant legislation, but the organisation can only afford to provide a minimal level of support to provide staff with the time and training to:

- have a comprehensive understanding of the head lease commitments;
- be conversant with port related legislation applicable for the operation of a commercial port facility; and
- develop procedures and policies specific to the port's operations.

It is considered that the Shire with such a limited resource capacity, is accepting a very high level of risk through its decision to operate an export port facility.



## **STATE GOVERNMENT AND KIMBERLEY PORTS AUTHORITY**

The land in the Derby Port precinct is Crown Land. The Shire of Derby/West Kimberley holds two current Head Leases with the Kimberley Ports Authority (KPA) for the Wharf and Barge Ramp (these two head leases expire in 2040 and 2038 respectively).

The KPA has the responsibility for the Port and is the lessor under the Existing Lease and Existing Management Agreement. Head Lessor responsibility was passed from the WA Department of Transport to the Kimberley Ports Authority on 1 July 2021.

### **STRATEGIC DIRECTION (FROM COMMUNITY STRATEGIC PLAN/CORPORATE BUSINESS PLAN)**

The engagement program around the development of the current Community Strategic Plan reinforced the importance of the Jetty was commonly reference to in community submissions as being something the community wanted to be available to it. For example, one of the specific comment received from a local person was *“Be good to see the Wharf go ahead to bring a lot of work to the town”*.

Whilst neither the Port nor the Jetty are specifically featured within the Community Strategic Plan, these locations and facilities are captured within the broader economy section of the Plan (see below), where it is outlined that the Shire aspires to:

1. promote a district that is ‘open for business’, and renowned for being practical and having:
  - a. a local experienced workforce;
  - b. reliable communications and information technology;
  - c. ease of access via road, air and water;
  - d. availability of locally based services and goods;
2. have our local businesses be:
  - a. the preferred provider for services and goods;
  - b. at the top of all procurement lists including government (all tiers), industry and other enterprises;
3. be recognised as a strong supporter of local business and industry, and lead the way in local procurement practices and outcomes;
4. be recognised as a district that promotes and supports entrepreneurialism, business development and growth;
5. have our small to medium-sized businesses supported by their representative industry groups so they are ready for any opportunity that may arise;
6. have local, state and federal government policy align with the needs of the Shire of Derby/West Kimberley; and
7. create a place where people want to live, invest, visit, and return to.

**Strategic Community Plan 2021 – 2031**

<b>OUR PRIORITIES:</b>	<b>3.1 - Industry and business development and growth</b>	<b>3.2 - Strong economy</b>
<b>WE WILL:</b>	3.1.1 Encourage and support appropriate and sustainable investment.	3.2.1 Recognise and promote the economic potential of the district.
	3.1.2 Value and support small to medium sized businesses.	3.2.2 Endeavour to increase visitor numbers, length of stay, spend and return.
	3.1.3 Encourage pathways to a job-ready and skilled local workforce.	
	3.1.4 Support industries, service providers and businesses in attracting and retaining workers and their families.	

## BUDGET AND LONG TERM FINANCIAL PLAN

A summary of past years' financial show that the six year average cost/operating loss of the Derby Jetty is almost \$700,000pa (includes approximately \$200,000 for depreciation allocation).

Row Labels	Type 1	IE	Sum of FY 30/06/15 Actual	Sum of FY 30/06/16 Actual	Sum of FY 30/06/17 Actual	Sum of FY 30/06/18 Actual	Sum of FY 30/06/19 Actual	Sum of FY 30/06/20 Actual	Sum of 6 Yr Total
<b>1 INCOME</b>	<b>Income</b>	3140 Reimbursement Income - Operating	223,020.56	30,905.29	20,436.27	6,807.18	47,591.80	41,525.61	370,286.71
		3430 Fees & Charges - Rental/Lease/Hire Income	89,322.31	80,610.82	67,200.95	262,259.82	207,990.10	180,186.68	887,570.68
		3450 Fees & Charges - Other	782,256.87	541,660.03	101,487.24	706,675.54	1,167,862.07	1,194,711.85	4,494,653.60
		<b>Income Total</b>	<b>1,094,599.74</b>	<b>653,176.14</b>	<b>189,124.46</b>	<b>975,742.54</b>	<b>1,423,443.97</b>	<b>1,416,424.14</b>	<b>5,752,510.99</b>
<b>1 INCOME Total</b>			<b>1,094,599.74</b>	<b>653,176.14</b>	<b>189,124.46</b>	<b>975,742.54</b>	<b>1,423,443.97</b>	<b>1,416,424.14</b>	<b>5,752,510.99</b>
<b>2 EXPENSE</b>	<b>Employee</b>	00 **Do Not Use** Default Ie Code For Altus Bank Reconcili	-	-	-	-	-	0.20	0.20
		2000 Employee Costs - Salaries & Wages	51,620.94	51,766.73	54,646.14	15,102.09	64,054.57	83,587.63	320,778.10
		2001 Employee Costs - Superannuation	795.53	3,087.24	3,229.73	-	-	-	7,112.50
		2003 Employee Costs - Other	259.20	-	561.92	279.60	644.55	-	1,745.27
		2100 Service Contracts	-	-	-	291.19	-	-	291.19
		2101 Materials	-	-	-	13.00	-	-	13.00
		300 Salaries	88,631.14	89,112.92	89,868.89	90,975.76	91,634.08	92,082.84	542,305.62
		9300 Labour Overheads Allocated	52,752.11	21,637.16	7,975.14	7,695.45	84,259.08	104,225.02	278,543.96
		9400 Plant Operating Costs Allocated	678.81	2,801.27	401.35	404.65	7,993.50	11,394.38	23,673.96
		<b>Employee Total</b>	<b>194,737.73</b>	<b>168,405.32</b>	<b>156,683.17</b>	<b>114,761.74</b>	<b>248,585.78</b>	<b>291,290.07</b>	<b>1,174,463.80</b>
	<b>Insurance</b>	2600 Insurance - Premiums	231,720.78	225,753.36	256,211.06	255,167.94	328,224.41	324,745.70	1,621,823.25
		<b>Insurance Total</b>	<b>231,720.78</b>	<b>225,753.36</b>	<b>256,211.06</b>	<b>255,167.94</b>	<b>328,224.41</b>	<b>324,745.70</b>	<b>1,621,823.25</b>
	<b>Loan</b>	2502 Interest Expense - Other	23,286.19	21,840.93	20,751.65	19,551.48	67,323.74	47,707.33	200,461.32
		<b>Loan Total</b>	<b>23,286.19</b>	<b>21,840.93</b>	<b>20,751.65</b>	<b>19,551.48</b>	<b>67,323.74</b>	<b>47,707.33</b>	<b>200,461.32</b>
	<b>Maintenance</b>	2100 Service Contracts	162,540.71	68,230.16	256,236.06	31,375.10	70,889.45	62,591.73	651,863.21
		2101 Materials	8,438.78	4,194.82	9,876.08	5,572.76	18,713.45	18,713.45	61,587.82
		2106 Lease/Rental/Hire Costs	-	3,170.87	2,200.45	6,459.65	8,910.60	9,879.21	30,620.78
		2700 Other Expenditure	3,545.45	-	305.00	-	-	-	3,850.45
		9400 Plant Operating Costs Allocated	430.00	80.00	217.60	-	-	-	727.60
		<b>Maintenance Total</b>	<b>174,954.94</b>	<b>75,675.85</b>	<b>268,835.19</b>	<b>43,407.51</b>	<b>98,513.50</b>	<b>76,262.87</b>	<b>737,649.86</b>
	<b>TBA</b>	9400 Plant Operating Costs Allocated	-	-	-	30.60	-	203.25	1,586.25
		9900 Admin Costs Allocated/Recovered	124,779.25	130,470.00	113,900.03	113,900.00	75,933.36	-	558,982.64
		<b>TBA Total</b>	<b>124,779.25</b>	<b>130,470.00</b>	<b>113,900.03</b>	<b>113,930.60</b>	<b>77,285.76</b>	<b>203.25</b>	<b>560,568.89</b>
	<b>Utility</b>	2200 Electricity	49,876.71	37,744.10	55,923.79	43,446.92	51,398.83	57,550.41	295,940.76
		2202 Water	6,865.64	10,072.46	7,004.92	-	-	-	23,943.02
		<b>Utility Total</b>	<b>56,742.35</b>	<b>47,816.56</b>	<b>62,928.71</b>	<b>43,446.92</b>	<b>51,398.83</b>	<b>57,550.41</b>	<b>319,883.78</b>
<b>2 EXPENSE Total</b>			<b>806,221.24</b>	<b>669,962.02</b>	<b>879,309.81</b>	<b>590,266.19</b>	<b>871,332.02</b>	<b>797,759.63</b>	<b>4,614,850.90</b>
<b>3 CAPITAL</b>	<b>Renewal</b>	2100 Service Contracts	224,914.47	-	46,993.96	17,524.45	320,030.34	6,363.67	615,826.89
		2101 Materials	23,600.00	-	-	-	-	-	23,600.00
		2106 Lease/Rental/Hire Costs	-	-	2,085.42	-	-	-	2,085.42
		4000 Non Operating Expenses	16,854.91	18,032.73	263,116.22	890,377.04	143,293.81	2,197,746.82	3,529,421.53
		5200 Proceeds From New Loan Borrowings	-	-	-	-	-	820,326.00	820,326.00
		<b>Renewal Total</b>	<b>265,369.38</b>	<b>18,032.73</b>	<b>312,195.60</b>	<b>907,901.49</b>	<b>463,324.15</b>	<b>1,383,784.49</b>	<b>3,350,607.84</b>
<b>3 CAPITAL Total</b>			<b>265,369.38</b>	<b>18,032.73</b>	<b>312,195.60</b>	<b>907,901.49</b>	<b>463,324.15</b>	<b>1,383,784.49</b>	<b>3,350,607.84</b>
<b>4 DEPRECIATION</b>	<b>DEPR</b>	2300 Loss On Asset Disposal	-	17,928.00	-	-	-	-	17,928.00
		2401 Depreciation Land And Buildings	233,933.74	-	97,480.49	184,884.96	244,803.17	245,143.84	1,102,378.71
		2403 Depreciation Plant And Equipment	-	96,132.51	-	-	-	684.59	684.59
		<b>DEPR Total</b>	<b>233,933.74</b>	<b>114,060.51</b>	<b>97,480.49</b>	<b>184,884.96</b>	<b>244,803.17</b>	<b>245,828.43</b>	<b>1,120,991.30</b>
<b>4 DEPRECIATION Total</b>			<b>233,933.74</b>	<b>114,060.51</b>	<b>97,480.49</b>	<b>184,884.96</b>	<b>244,803.17</b>	<b>245,828.43</b>	<b>1,120,991.30</b>
<b>Grand Total</b>			<b>210,924.62</b>	<b>148,879.12</b>	<b>1,099,861.44</b>	<b>707,310.10</b>	<b>156,015.37</b>	<b>1,010,948.41</b>	<b>3,333,939.05</b>

The Jetty's average \$700,000pa (including depreciation) operational loss is funded as an operational cost in the Shire's annual budget.

The Shire's Long Term Financial Plan and the Corporate Business Plan (2019 – 2023) shows the following capital works (vis. not operational) allocations for the Derby Port:

Project	2019/20	2020/21	2021/22	2022/23	2023/24 onwards
Derby Port Renewals and Upgrades*	\$100,000	\$60,000	\$75,000	\$76,125	\$916,635

\*The above Shire proposed allocations via the Corporate Business Plan (2019 – 2023) will be supplemented by contributions already agreed to be provided from Kimberley Ports Authority (for works undertaken in 2022/23). The revised Corporate Business Plan will likely include future contributions from Kimberley Mineral Sands resultant from the newly renegotiated lease, formalised in October 2022.

## ASSET MANAGEMENT OBLIGATION

The Head Lease includes a clause (#7.6) for maintenance as follows:

*Maintain the Premises, the Lessor's Improvements, the Facilities and the Lessee's Improvements in good condition to the satisfaction of the Lessor and will replace any damaged items except in the event of:*

- (1) fair wear and tear;*
- (2) structural damage not caused by an act or omission of the Lessee or of the Lessee's Employees, Agents and Customers; or*
- (3) damage caused by an event which is the subject of a risk against which the Lessee has insured, but if payment of the insurance money under the Lessee's insurance policy in respect of that damage is refused or reduced by reason of an act or default of the Lessee, the Lessee must in respect of that damage, maintain the Premises in good condition to the extent that the insurance money is refused or reduced, but the Lessee's obligation under this clause is diminished to the extent that payment of insurance money under the Lessee's insurance policy in respect of that obligation is:
  - (a) received by the Lessor; or*
  - (b) refused or reduced by reason of an act or default of the Lessor's, and the Lessee must replace all broken or damaged glass in the doors, walls or windows of, or to, the Premises irrespective of the cause of breakage or damage.**

If we ignore any “fit for purpose” obligations the Shire might have made to its sub-lessees, in essence, the above clause says that the Shire need only maintain the jetty for damage/repair when something is damaged due to an event of some kind, but there is no requirement to maintain anything that wears out due to “fair wear and tear”, so those parts of the jetty can remain unrepaired or unfixed. A somewhat impractical outcome for a jetty user, but from the perspective of the State Government, it has no interest in seeing the jetty remain into the longer term so if it fails due to “normal age deterioration”, that is of no concern to the State.

There have been numerous reports in the past that have outlined the poor state of repair of the Jetty (e.g. 2004 - LG Consulting Services Pty Ltd made the following comment) – *“There are safety, economic, national security, recreational, social and tourism reasons for proposing this project proceed; and within the near future. There is only a small window of opportunity to replace and upgrade the respective assets before deterioration is such that the wharf precinct may have to be closed. The recommencement of all operations in this precinct would then be at significantly higher costs.”*

The Derby Port is a high cost/low revenue facility, maintained by the Shire at ratepayer expense to provide for the potential of future economic development. The LG Consulting Services Pty Ltd report highlighted that *“It is not possible for the Derby/West Kimberley Shire Council to finance these works by their own means. There will be flow-on benefits to both the State and Federal Governments and there will also be important outcomes relating to strategic, industry, economic, tourism, and social issues which will extend beyond the boundaries of the town and the Shire area. The Council has indicated that it will be making approaches to a number of State and Federal Government bodies [for funding].”* A \$2.6m proposal was promoted at the time, with the Shire committing almost \$500,000 towards those costs.

It would seem appropriate for the Shire to prosecute an argument to the State Government, and to a lesser degree the Federal Government, that special grants for asset refurbishment should be made available to the Derby Port in light of the royalties and other taxes generated as a result of the port's exports.

The 2019 Infrapro Derby Jetty and Associated Infrastructure Structural Condition Report highlights the below Table, and estimates maintenance at approximately \$10m until the Head Lease expires in 2040.

Line Item	Maintenance Works	Notes	Qty	Unit	Unit Rate	Recommended Maintenance Schedule and Cost Estimate (all costs in 3Q2019 AUD) [1]																					
						2020	2021	2022	2023	2024	2025	2026	2027	2028	2029												
<b>Concrete Deck</b>																											
1	Northern Neck - Piers 1 to 33 - repair spalling, seal joints and cracks		1	sum	\$	10,000																					
2	Ramp - Piers 06 to 73 - repair spalling, seal joints and cracks		1	sum	\$	5,000																					
3	Southern Neck - Piers 48 to 05 - repair spalling, seal joints and cracks		1	sum	\$	10,000																					
4	Main Head (Front) - Piers 33 to 47 - repair spalling, seal joints and cracks		1	sum	\$	20,000																					
5	Main Head (Rear) - Piers 33 to 47 - repair spalling, seal joints and cracks		1	sum	\$	5,000																					
6	Remedial crack repairs / sealing - every 5 years		1	sum	\$	5,000																					
7																											
8	<b>Steel Deck Sections</b>																										
9	Repairs to deck soffit where plates have completely corroded or become loose		1	no	\$	200,000																					
10	Repairs to deck - pier 1 to pier 3 (Northern Abutment)		1	sum	\$	400,000																					
11	Repairs to deck - pier 04 to 05 (Southern Abutment)		1	sum	\$	30,000																					
12	Repair deck penetrations (Main Head (Front) and repair deck soffit - 108 holes / 26 panel locations		26	no	\$	24,000	\$	624,000																			
13	Remove all obsolete pipes, maintenance rail etc		1	sum	\$	20,000	\$	20,000																			
14	Blast and paint soffit		7352	m <sup>2</sup>	\$	450	\$	3,308,400																			
15	Blast and paint all edge beams		438	m <sup>2</sup>	\$	330	\$	145,350																			
16	Touch up all soffit and edge beams as required every 5 years (assume 2% of area)		400	m <sup>2</sup>	\$	600																					
17																											
18	<b>Headstock Beams</b>																										
18	Blast and paint headstock and pile caps at pier 1		17	m <sup>2</sup>	\$	450	\$	7,650																			
19	Blast and paint headstock and pile caps at pier 03		12	m <sup>2</sup>	\$	450	\$	5,400																			
20	Blast and paint headstocks and pile caps - southern neck piers 52 to 04		160	m <sup>2</sup>	\$	450	\$	72,000																			
21	Blast and paint remaining headstocks and pile caps		2238	m <sup>2</sup>	\$	450	\$	1,007,100																			
22	Touch up all headstocks and pile caps as required every 5 years (assume 2% of area)		120	m <sup>2</sup>	\$	650																					
23																											
24	<b>Piles / Pile Caps</b>																										
24	Repair piles with holes in wall		10	no	\$	5,000	\$	50,000																			
25	Fit steel reinforcing plates (if required - subject to inspection)		10	no	\$	20,000	\$	200,000																			
26	Repair pile caps (concurrent with painting headstocks)		20	no	\$	2,000	\$	40,000																			
27	<b>Cathodic Protection</b>																										
28	Replace depleted anodes to piles - allow for 30 piles every two years		50	no	\$	500	\$	25,000	\$	-	\$	25,000	\$	-	\$	25,000											
29																											
30	<b>Pile Wrapping</b>																										
30	Replace damaged Denso wrap to piles - allow for 30 initial repairs		30	no	\$	2,500	\$	75,000																			
31	Replace damaged Denso wrap to piles - allow for 10 repairs every 5 years		20	no	\$	1,200																					
32																											
33	<b>Quay Furniture</b>																										
33	Touch up paint to Light Pole supports - allow every 5 years		1	sum	\$	2,000																					
34																											
35	<b>Southern Berth Fenders</b>																										
35	Repair and paint / replace all timber chafers to fender piles FP1 to FP16 with UHMW-PE chaffer		16	no	\$	30,000	\$	480,000																			
36	Ongoing replacement of UHMW-PE chafers - allow 30% replacement every 5 years (subject to berth utilisation)		8	no	\$	10,000																					
37																											
38	<b>Northern Berth Fenders</b>																										
38	Blast and paint upper length of fender piles LP1 to LP10 (7.2m <sup>2</sup> per pile)		43.2	m <sup>2</sup>	\$	450	\$	19,440																			
39	Ongoing replacement of UHMW-PE chafers - allow 30% replacement every 5 years		3	no	\$	10,000																					
40																											
41	<b>Wharf Storage Shed</b>																										
41	Supply galv HD bolts/ base plates - 30 columns / 2 bolts per column		[2]	72	no	\$	30	\$	2,160																		
42	Install HD bolts and fix under soffit - 30 columns / 2 bolts per column		[2]	36	no	\$	400	\$	14,560																		
43																											
44	<b>Barge Loader &amp; Conveyor</b>																										
44	Repair corroded conveyor support trestle / frame - pier 03		1	sum	\$	12,000																					
45	Touch up all paint to conveyor, support trestles and barge loader		1	sum																							
46																											
47	<b>Boat Ramp</b>																										
47	Remove/repair/replace corroded sections of ramp walkway		1	sum	\$	20,000																					
48	Blast and paint ramp walkway steelwork		1	sum	\$	40,000																					
49																											
50	<b>Inspections</b>																										
50	Biennial inspections		1	sum	\$	30,000	\$	30,000	\$	30,000	\$	30,000	\$	30,000	\$	30,000											
<b>Totals</b>						\$	6,906,570	\$	124,440	\$	55,000	\$	30,000	\$	33,000	\$	193,000	\$	205,000	\$	80,000	\$	25,000	\$	38,000	\$	7,730,010

Council has an existing policy (F2) Asset Management, which has amongst other objectives, the following:

- Meeting legislative requirements for asset management; and
- Ensuring resources and operational capabilities are identified and responsibility for asset management is allocated.

These policy conditions are not being met by the Shire or by Council at the present time in regard to the Derby Port Precinct.

The Shire very cleverly as part of the agreement to re-open the port in 1997, managed to “off-set” this asset management need by requiring Western Metals Limited (WML) to meet the cost of carrying out essential and recommended repairs and maintenance to bring the jetty up to a

safe operating condition. The initial work on the jetty included removal of redundant fenders and repairs to the north and south abutments and approaches.

The Shire carried out additional maintenance works in 2000/2001, including the re-painting of all main headstock beams, Denso wrapping of piles and replacement of sacrificial anodes to piles. In 2009 all Denso wrapping was repaired and extended on all circular piles and all hexagonal piles were wrapped for the first time. Ongoing maintenance works was carried out between 2009 and 2016 including replacing anodes, handrails and light pole supports. Only limited maintenance has been carried out on the jetty since that time.

Jetty's require constant asset management attentions and the latest Jetty Condition Inspection Report (September 2020) highlighted that the overall condition of the jetty was poor, but structurally sound for current uses and loads. Severe corrosion does exist, but due to the construction redundancy capacity built into the structure, catastrophic or localised collapse risk is low. An outline of current condition is below:

### *1.3 Current Condition*

*Based upon the most recent inspection report (SDWK-SCR-19-001 rev 1 issued in October 2019) the current condition of the jetty can be summarised as follows:*

*The overall condition of the jetty is poor but structurally sound based on current loading conditions from ongoing operations;*

*There are a number of areas of severe corrosion areas in the jetty deck steelwork, namely:*

- North abutment deck between piers 1 and 3;*
- South abutment deck between piers 64 and 65;*
- Rear Lower head deck and piles between piers 71 and 34;*
- Front berth deck edge beams between piers 46 and 47; and*
- A number of areas where the bottom seal plates have broken loose.*

*Other areas of poor to very poor condition include:*

- Pile caps generally throughout the jetty with more severe corrosion in the lower deck areas and adjacent to the abutments;*
- A number of piles with holes visible adjacent pile caps;*
- Crosshead girders at north and south abutments;*
- Fender piles FP1 to FP16 at the southern berth;*

*The most critical defect is the holding down bolts for the storage shed columns which have severe corrosion on the underside of the deck. As inspection has been limited to visual inspection only, either from a dinghy or from the mudline, it is not possible to accurately define the condition of the bottom deck plates where the HD bolts penetrate the deck.*

A previous report recommended that the Shire ought to undertake approximately \$7m of remedial works to bring the jetty back to a good standard of repair.

The latest report provided an option (Option #3) to propose the minimum additional maintenance required to facilitate proposed export operations of Sheffield Resources (now Kimberley Mineral Sands) to the end of the lease term (2040). That option can be summarised as:

*“This option considers the minimum maintenance required to enable export of mineral sands using the existing conveyor and barge loader. It is assumed that Sheffield operations will commence in 2023 and continue until the end of the lease term (2040).*

*This option also facilitates continuation of current operations on the jetty including:*

- *Supply barges for Mt Gibson Iron operations on Kulin Island;*
- *Material movements to support MPA fish farming operation; and*
- *Occasional visits by charter boats.”*

Option #3 requires immediate expenditure of \$570,000 with a total expenditure of some \$2.4m up to 2040 (or approximately \$240,000pa).

The Shire and Kimberley Ports Authority are undertaking approximately \$400,000 of urgent maintenance works in 2022, with costs being shared equally between it and the Shire. These works include some of the urgent repair work highlighted within the abovementioned Jetty Condition Inspection Report (September 2020)

The new Kimberley Mineral Sands (KMS) lease includes KMS taking responsibility for the maintenance of the jetty in the immediate proximity of its leased area, which will at least limit the maintenance responsibilities of the Shire to “just” the remaining 75% of the structure. Still, this 25% reduction will allow the Shire to focus its limited resources on a smaller jetty area, which should result in a superior outcome to be achieved for the jetty.

### **SHIRE STAFF RESOURCES**

The Shire manages the Jetty operations using its own employees. These operations are efficient but only basic staff hours are allocated in light of the approximately \$700,000pa loss incurred. In light of the operating loss position of the port, insufficient staff time is available to allocate to the task of jetty management. This results in the Shire needing to accept a higher level of risk than would otherwise be the case if the port were profitable and sufficient funds were available for it to be managed by a professionally qualified and fully resourced ports team (or it were managed/supervised by an experience ports authority, like the KPA).

### **COMMUNITY ENGAGEMENT AND STAKEHOLDER MANAGEMENT**

Stakeholder management and community engagement is presently conducted on as “as required” but ad-hoc basis. This has been satisfactory but could be improved.

## RISK STRATEGY

The Shire has an existing good quality Risk Management Framework, which is consistent with Australian Standard (AS/NZS ISO 31000:2018 Risk management – Guidelines). It sets out the Shire’s approach in regard to the identification, assessment, management, reporting and monitoring of risks. This report utilises that strategy in its assessments.

The risk principles ensure:

- Strong corporate governance;
- Compliance with relevant legislation, regulations and internal policies;
- Integrated Planning and Reporting requirements are met; and
- Uncertainty and its effects on objectives is understood.



### Appendix A – Risk Assessment and Acceptance Criteria

Shire of Derby/West Kimberley Measures of Consequence									
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment	Project TIME	Project COST
<b>Insignificant (1)</b>	Near miss. Minor first aid injuries	Less than \$20,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential damage.	Contained, reversible impact managed by on site response	Exceeds deadline by 10% of project timeline	Exceeds project budget by 10%
<b>Minor (2)</b>	Medical type injuries	\$20,001 - \$100,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response	Exceeds deadline by 15% of project timeline	Exceeds project budget by 15%
<b>Moderate (3)</b>	Last time injury <30 days	\$100,001 - \$500,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies	Exceeds deadline by 20% of project timeline	Exceeds project budget by 20%
<b>Major (4)</b>	Last time injury >30 days	\$500,001 - \$1,000,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies	Exceeds deadline by 25% of project timeline	Exceeds project budget by 25%
<b>Catastrophic (5)</b>	Fatality, permanent disability	More than \$1,000,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact	Exceeds deadline by 30% of project timeline	Exceeds project budget by 30%

A Strengths; Weaknesses; Opportunities; and Threats assessment undertaken in September 2020 highlighted the following risk areas:



# Master-Plan SWOT Analysis Summary



SWOT Analysis SUMMARY				
TOPIC		TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Federal Government Position				
Environment				
Flow on Benefits				
Current leases				
Western Australian State Government Position				
Threats				
Local Government Act				
Future Leases				
Warburton Lease Renegotiation				
Stakeholder Coordination				
Risk				
Users/Opportunities				
Shire of Derby/West Kimberley				
Community Use				
Indemnity/Insurance				
Fatal Flaws				



A more detailed summary of those risks is outlined below:

Risk Assessment		
Risk Area	Description	Assessment
Health	<p>Jetty user safety will be put at risk if the property is unsafe or not sufficiently maintained.</p> <p><b><i>An adequate budget allocation to allow appropriate asset management to occur and appropriate safety mechanisms to be maintained, is required.</i></b></p>	Moderate
Financial Impact	<p>Jetty operational losses are expected to rise when the Warburton/Ace port opens.</p> <p>The Shire had historically committed (via a sub-lease) to keep and maintain at least that part of the jetty that will service the Thunderbird mine (Kimberley Mineral Sands), but the reviewed lease now required KMS to undertake this maintenance. A good portion of the estimated \$2.4m jetty maintenance cost (over the lease term) can now be avoided.</p> <p>Jetty Road reconstruction and maintenance is required, but application to MRWA has been made to transfer this road to a state responsible road.</p> <p>External and internal port road infrastructure costs are expected to rise substantially with higher and heavy traffic, but there should be some off-set with higher local government rates and Kimberley Mineral Sands' tonnage fee contribution.</p> <p><b><i>A thorough understating by Council of the Shire's short and long term commitments and legal obligations is required.</i></b></p>	Extreme Moderate (if KMS income stream is achieved)
Service Interruption	<p>Any delays in Shire responsible infrastructure provision or maintenance will cause service interruptions for port users.</p> <p><b><i>Adequate funding and good procurement and project management is required.</i></b></p>	High
Compliance	<p>As the jetty's operations are relatively small by industry comparison, and the Shire does not employ specialist port management personnel, the risk of a non-compliance is therefore quite possible.</p> <p><b><i>Adequate training and a legal advice support budget is required, and/or a management agreement with Kimberley Ports Authority should be developed to assist the Shire with the port's operations.</i></b></p>	High
Reputational	<p>Operating a port has many complexities with numerous competing stakeholder interests. Large and long term financial commitments are often required and commerce</p>	High

	<p>and community wellbeing interests often compete against each other. Some decisions will therefore have lasting very positive, or very negative implications.</p> <p><b><i>Adequate training and a specialist consultant/legal advice support budget is required.</i></b></p>	
Property	<p>It is possible with adjoining port operations, for there to be significant damage occur to the jetty. This could also occur as a result of severe weather or a cyclone.</p> <p><b><i>Suitable insurance coverage needs to be maintained (funds permitting) or sub-lease documents need to pass on the risk that only removal of debris only insurance will be provided by the Shire.</i></b></p>	High
Environment	<p>With large scale industrial style operations occurring in a very high tidal movement environment, there is always the potential of uncontained environmental damage to occur through spills and shipping movements.</p> <p><b><i>A regular monitoring regime is required, including requiring Baseline and Periodic Environmental Contamination studies to be provided. Good operational practices by port users and good stakeholder liaisons with state government environmental agencies is also required.</i></b></p>	High
Project Time and Project Costs	<p>Capital and Maintenance works requirements for the Derby Jetty will often require a unique supply provider, and need to be completed in an environmentally challenging environment.</p> <p><b><i>Good procurement controls, tendering protocols, and project management techniques will be required for all works, particularly large complex undertakings. The assistance of skilled resources from Kimberley Ports Authority might also be warranted.</i></b></p>	High

## KEY SUB-LEASES - RISKS

### Warburton/ACE

The Warburton/Ace proposal is progressing through feasibility and is supported by the Shire. It seeks to use private funds (and possibly a loan from the Northern Australian Infrastructure Fund) to develop a new and modern port facility adjacent to the Shire's Derby Jetty. It also proposes to take up over 100ha of land between the Derby Port and the town of Derby, with the view to making this available for port related developments.

Whilst the proposal, if it comes to fruition, will be a significant economic boost for the region, it will also require the Shire to meet the costs of upgrading Jetty Road and internal port roads, unless these costs can be offset with Development Approval conditions, or Jetty Road can be reclassified as a main road and transferred to be the responsibility of Main Roads WA.

There is no documentation (like lease clauses or Schedules, or a separately aligned agreement) that outlines any legally enforceable undertakings outlining either what benefits the Derby community will enjoy as a result of the lease (e.g. staffing or additional housing development), or addressing how the existing community facilities (e.g. jetty walkway; back boat ramp; or the Volunteer Sea Rescue), but what is clear is that the existing agreement will be replaced with an independent lease where the Shire will not be a party (vis. the existing agreement already accepts that the Shire will support a transfer of the land tenure to a WA State Government/Warburton Ace land lease). This is reflected in Clause 2.1 (4) of the sub-lease and requires that the Sublessor (vis. the Shire):

*(a) must use its best endeavours to facilitate negotiations between the Sublessee and the Head Lessor, for the Head Lessor to accept a partial surrender by the Sublessor from the Head Lease of those parts of the Premises reasonably required by the Sublessee to carry out the Development and for the Head Lessor to enter into the Direct Lease with the Sub lessee; and*

*(b) must, if the Head Lessor agrees to enter into the Direct Lease with the Sub lessee, partially surrender from the Head Lease that part of the Land the subject of the Direct Lease to enable the Head Lessor and Sublessee to enter into the Direct Lease.*

This clause was inserted because the Shire only has the ability to offer sub-leases out to 2040 (vis. sub-leases cannot exceed the term of the head-lease). As Warburton/Ace is intending to invest very large amounts of capital onto the leased land, 18 years was not seen as sufficient to enable a commercially realistic business case to be presented to its Board, and to its financiers.

The result of this clause from a Shire perspective however, is that once the Shire relinquishes the land currently contained within its Head-Lease, the Shire will no longer be entitled to any lease fee or have any direct influence (as Lessor at least) over the direction of the arrangement. Ideally some "protective clauses" should be included in the agreement at the next review, to either require that the Shire need only relinquish the land if it cannot secure a new Head Lease for 2040+, or if the lease is with Kimberley Ports Authority/State Government, that any new lease ensures that development actually does occur within a reasonable time-line (and the area is not simply "land banked").

## KIMBERLEY MINERAL SANDS

The Kimberley Mineral Sands (ex Sheffield Resources) lease provides the capacity for it to export bulk mining sands utilising the existing ship-loader facility at the Derby Jetty. The development of this mine and the use of the Derby Jetty will provide a significant economic boost for the region.

The sub-lease has recently been reviewed and executed, with much more favourable terms than that which were historically negotiated, like a doubling of the previously agreed export tonnage rate, and up to \$10m in payments to the Shire if certain outcomes prevail, (including a \$7m payment if KMS does not actually use the jetty at all). There are still some unknowns however, like what costs the Port might need to incur to facilitate an international export, like new licenses, or higher standard assets/operations/security that are port requirements for international operations.

Irrespective of the above, there is still risk for the Shire as it must still provide a well maintained jetty (for at least the remaining 75% of the jetty not leased to KMS) irrespective of the Head lease only requiring that basic maintenance need be provided.

The lease provisions are designed to protect the Shire from ‘subsequential damages claims’ but should the Shire fail to maintain the jetty for KMS’s use until 2040, it could still potentially receive a non-performance damages claim if for reasons within the Shire’s control, KMS cannot access the ship-loader and is required to source a more expensive ship-loading option, like the nearby Warburton/Ace facility.

Sheffield has a private arrangement with Mt Gibson Iron/Koolan Iron Ore for it to use the land area of its sub-lease, which is in place until it might require the land for its own use.

Other than the “public community commitments” (see below list) offered by KMS, there is no documentation (like lease clauses or separately aligned agreements) that provides any legally enforceable undertakings outlining what benefits the Derby community will enjoy as a result of the lease commitments the Shire has guaranteed.

<b>Kimberley Commitment</b>	<b>Social Licence</b>
Local Employment – 280 DIDO jobs	Creating positive change through engagement with Aboriginal People
Intergenerational jobs – 37 years*	Local community partnerships
40% Aboriginal employment Aboriginal training fund	High standards of environment, water, diversity and Aboriginal heritage management
Aboriginal business	Cash Royalties to Traditional Owners - 37 years*

(\*was originally estimated at 45 years).

## **APPENDICIES**

- 1. Location Plan;**
- 2. Strength/Weakness/Opportunities/Threats Analysis (SWOT);**
- 3. *Infrapro* Maintenance Options Study;**
- 4. Ghannt Chart;**
- 5. Kimberley Community Cabinet Submission;**
- 6. Status Report;**
- 7. Critical Port Decisions Assessment.**

## SWOT ANALYSIS

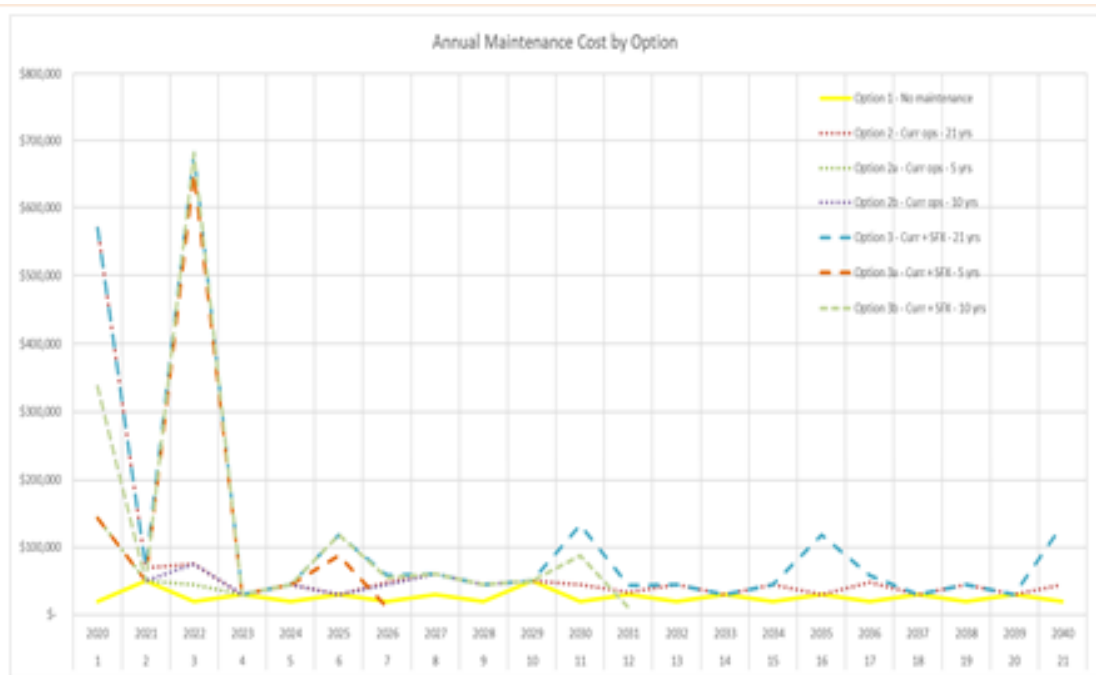
Item	Comments
<b>STRENGTHS</b>	
<ol style="list-style-type: none"> <li>1. The Shire is the sub lessor and operator of the Port, and decides its (medium term) future.</li> <li>2. The Port is structurally sound for light vehicle and pedestrian use.</li> <li>3. Strong Community support.</li> <li>4. Mining and industry sector support.</li> <li>5. Lease only commits Shire until 2040.</li> </ol>	<ol style="list-style-type: none"> <li>1. The Shire holds the Head Lease until 2040.</li> <li>2. As part of community consultation with the Community Strategic Plan, the jetty's retention was well supported.</li> <li>3. Derby jetty is the preferred port and landing area for mining companies operating within this immediate area.</li> <li>4. Shire needs only to manage the facility and develop business until 2040, when management of it will transfer back to Kimberley Ports Authority.</li> </ol>
<b>WEAKNESSES</b>	
<ol style="list-style-type: none"> <li>1. Shire's/Port's lack of financial capacity.</li> <li>2. Lack of specialist port staff and limited Shire resources to operate and promote the Port.</li> </ol>	<ol style="list-style-type: none"> <li>1. Insufficient funds are earned from the port's operations, or provided by the Shire, for the Port's asset management needs or for its professional management and strategic promotion.</li> <li>2. The proposed new lease with Kimberley Mineral Sands will provide (if it exports from the Jetty) the necessary funds to maintain the Port and its jetty.</li> </ol>
<b>OPPORTUNITIES</b>	
<ol style="list-style-type: none"> <li>1. Economic development generally, providing local employment, and local business enhancement.</li> <li>2. Mining activities generally.</li> <li>3. Kimberley Mineral Sands.</li> <li>4. Tourism (tour boats and land based).</li> <li>5. Café/Restaurant.</li> <li>6. Jetty Road transfer to Main Roads WA.</li> </ol>	<ol style="list-style-type: none"> <li>1. There have been regular enquiries by companies interested in utilising the Derby Wharf precinct.</li> <li>2. A growing market and additional local operators are expected to occur.</li> <li>3. An application has been submitted to Main Roads WA to take over control/maintenance of Jetty Road.</li> </ol>
<b>THREATS</b>	

<ol style="list-style-type: none"> <li>1. Competition from other Kimberley Ports.</li> <li>2. Kimberley Mineral Sands does not export from Derby.</li> <li>3. Accessibility of funding from KMS or others to undertake repairs and maintenance to the Port in readiness for Kimberley Mineral Sands and other operators.</li> <li>4. Development of Warburton/ACE land-backed wharf.</li> <li>5. Lease only permits the Shire to control the Port until 2040.</li> </ol>	<ol style="list-style-type: none"> <li>1. Currently servicing as a inter-regional port, distance to/from other ports keeps positive economic perspective for local regional mining and other operations.</li> <li>2. The construction of a more effective wharf adjacent to the jetty could result in port fees reducing substantially.</li> <li>3. The relatively short period remaining on the lease (18 years) means that potential port users/lessees will be unwilling to commit, and particularly if large Lessee funded infrastructure costs are required.</li> </ol>
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### ESTIMATED MAINTENANCE COSTS

Year	Maintenance Option	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040					
1	Option 1 - No maintenance	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				
2	Option 2 - Current 21 yrs	50000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
3	Option 2a - Current 5 yrs	50000	50000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
4	Option 2b - Current 10 yrs	50000	50000	50000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
5	Option 3 - Current 21 yrs + SR	100000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
6	Option 3a - Current 5 yrs + SR	100000	100000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
7	Option 3b - Current 10 yrs + SR	100000	100000	100000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8	Option 4 - SR only	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	



## Masterplan Timetable (1 of 3)



ISSUE	TIMELINE										BUDGET
	NOW	3 MONTHS	6 MONTHS	12 MONTHS	2 YEARS	3 YEARS	4 YEARS	5 YEARS	5+ YEARS		
Sub-Leases - O&M to read all (particularly Sheffield for conflicts)	█										
Sub-Leases - Monitor for compliance and contact		█	█	█	█	█	█	█	█	█	
Head Lease - Maintain compliance				█	█	█	█	█	█	█	
Derby Port Lease Register - Develop		█	█	█	█	█	█	█	█	█	
Derby Volunteer Marine Rescue - Protect	█	█	█	█	█	█	█	█	█	█	
Stakeholder List - Develop	█	█	█	█	█	█	█	█	█	█	
Stakeholder Communications Plan - Develop	█	█	█	█	█	█	█	█	█	█	
Stakeholder Communications - Focusing on Port User Commercial Timing/Viability			█	█	█	█	█	█	█	█	\$5k pa
Stakeholder Engagement - Maintain mutual understanding on Port Project			█	█	█	█	█	█	█	█	\$5k pa
Key Stakeholders - Engagement and Involvement (MLA, KPA, IDC, W/Ace)			█	█	█	█	█	█	█	█	\$5k pa
Community Engagement - Maintain mutual understanding on Port Project			█	█	█	█	█	█	█	█	\$5k pa
Financial Issues - Calculate Port Project's Warburton/Ace Proposal	█										\$150 pa
Kimberley Port Authority - gain commitment to a "Shire Fee" to manage Port infrastructure		█	█	█	█	█	█	█	█	█	±\$1 -2M pa
Head Lease - Renegotiate to secure a KPA "Shire Fee" (if required)				█	█	█	█	█	█	█	\$5k
KPA Fee - Receive / or increase / stop / start					█	█	█	█	█	█	
Asset Management Plan - Develop	█	█	█	█	█	█	█	█	█	█	\$10k
Jetty Maintenance - as per Head Lease	█	█	█	█	█	█	█	█	█	█	\$10m Loan/KPA

## Masterplan Timetable (2 of 3)



	NOW	3 MONTHS	6 MONTHS	12 MONTHS	2 YEARS	3 YEARS	4 YEARS	5 YEARS	5+ YEARS	
Warburton/Ace Sub-Lease - Land area modification. Council to Consider	█	█	█	█						
CWC Sub-Lease - Legal Advice		█	█	█						
CWC Sub-Lease - Cancel and transfer to Warburton/Ace		█	█	█						
Community Consultation - 5.55 Disposal of Land proposal			█	█						
W/Ace Sub-Lease - 55.58 processed to consider sub-lease modifications			█	█						
W/Ace Sub-Lease - Cancel Forc Majeure	█	█	█	█						
W/Ace Sub-Lease - annual lease fee increased to same as CWC (2034,000)		█	█	█						
W/Ace Sub-Lease - standardise indemnity clause		█	█	█						
W/Ace Sub-Lease - Renegotiate M&I terms		█	█	█						
W/Ace Sub-Lease - Renegotiate DoT Land Lease clause to include "no detriment clause" for Shire		█	█	█					\$10k	
W/Ace Sub-Lease - Renegotiate to protect Jetty Walk		█	█	█						
W/Ace Sub-Lease - include jetty/siting etc. environmental protection carry over clause		█	█	█						
W/Ace Sub-Lease - Monitor M&I terms				█	█					
Wayne Holland Hire Agreement - Renormalise or remove boat		█	█	█						
Barge Loading Ramp - Review Fee		█	█	█						
Barge Licence - introduce for Use (Mt Gibson Iron)									\$5k	
Marketing/Promotions - Tourism				█	█	█	█	█	█	\$20k pa
Promotions - Commercial Port Project				█	█	█	█	█	█	\$10k pa
Jetty Restaurant - Lease to be signed				█	█	█	█	█	█	\$5k

# Masterplan Timetable (3 of 3)



	NOW	3 MONTHS	6 MONTHS	12 MONTHS	2 YEARS	3 YEARS	4 YEARS	5 YEARS	5+ YEARS	
Construction - Jetty Restaurant										\$500k Loan/KPA
Construction - Recreational Boat Ramp										\$500k Loan/KPA
Construction - Tourism/POS spaces										\$500k Loan/KPA
Construction - "Internal" Port Roads/Hardstands										\$1M
Maintenance - "Internal" Port Roads/Hardstands										\$200k pa Loan/KPA
Maintenance - "External" Shire Roads										\$500k pa Loan/KPA
Reconstruction - Jetty Road										\$2 - 10M? Loan/KPA
Maintenance - Jetty Road (*for transfer to MTRWA ownership)										\$500k pa Loan/KPA
Indemnity - Sub-Leases to move to standardised clauses (upon renewals)										
Insurances - Head Lease change to only disposal cover v's Maintain LGIS coverage?										
Local Government Act - 53.59 Major Land Transaction??										
Sub-Lease commitments - Budget - do we have any??										????
Sheffield Infrastructure Commitments??										????



<b>STATUS REPORT</b>		
<b>TOPIC</b>	<b>ISSUE/PROPOSAL</b>	<b>STATUS</b>
Risk	Align the Shire's indemnity to the Head Lease and the legal advice previously received	Completed
Volunteer Marine Rescue	New lease	Completed
Mary Island Fishing Club Lease	Extended	Completed
Commercial Boats Storage	Licence areas specified and agreements established.	Ongoing on an "as required" basis.
Jetty Road	Seek to have transferred to Main Roads WA.	Ongoing - Application lodged with MRWA.
Warburton/ACE Milestones	Review to be more specific.	Ongoing renewals have occurred, but the question of a review is yet to be considered by Council.
Kimberley Mineral Sands Lease	Renegotiate Lease on more favourable terms.	Completed.
Recreational Boat Ramp	Extract from Warburton/ACE lease area or Relocate/Replace.	No action taken as yet - Subject to S3.58 sale of land process and any new sub-lease renegotiation (or a separate negotiation with Kimberley Ports Authority).
Jetty Walk	Extract from Warburton/ACE lease area or Relocate/Replace.	No action taken as yet - Subject to S3.58 sale of land process and any new sub-lease renegotiation (or a separate negotiation with Kimberley Ports Authority).

# DERBY WHARF PRECINCT MASTERPLAN AND REDEVELOPMENT

The Shire of Derby/West Kimberley has prioritised a masterplan for the Derby Wharf Precinct as its key project recognising the ecological, cultural and recreational benefits for the entire Kimberley region.

It is envisaged that the subsequent developments will provide for increased tourism opportunities in the region and provide considerable development of Aboriginal employment and engagement. The SDWK envisages that the masterplan – encompassing advanced design, a business case, planning and consultation – would be shovel-ready for funding opportunities by 2022.

The Derby Wharf precinct is already an iconic tourism draw card, with the significant tidal movements that the area experiences attracting many domestic and international travellers to experience the King tides every April – the second biggest tides in the world. The Shire of Derby West Kimberley currently receives just 12 percent\* of the revenue from the west Kimberley tourism market with significant opportunity for growth through an improved visitation experience, supporting business and providing jobs in an area that currently has an unemployment rate of 32.5percent.\*\*

Furthermore, although high-quality port facilities across the Kimberley are of vital importance to the future economy of the region, the ageing Derby Port infrastructure is at risk of hampering development.

The masterplan is intended to include:

- tourism facilities and a King Sound Interpretive Cultural Centre
- foreshore enhancement
- improved boat ramp facilities
- parking, road access and land assembly considerations.

## PROJECT BENEFITS

- Improved economic viability for the communities of Derby and Fitzroy Crossing.
- Increased retail and tourism activation.
- Showcases Aboriginal cultural and heritage values.
- Improved the Kimberley visitor experience, increasing product quality.
- Improved recreation amenity for attraction and retention of regional population.
- \$45m private sector port investment with \$20m confirmed.
- Export of 150,000 - 300,000 of LTR ilmenite with a 42-year mine life.

**DERBY WHARF CAFE REVITALISATION PROJECT**

What are we looking to achieve? The cafe will be a premier dining venue, providing a high-quality dining experience for visitors to the region.

Project location: Derby, WA  
Project start: 2022  
Project completion: 2024  
Project budget: \$45m (with \$20m confirmed)

For more information, contact the Shire of Derby/West Kimberley  
1300 666 666  
www.derby.wa.gov.au

**Planning for Development**

PROJECT VALUE	ADDITIONAL INVESTMENT POTENTIAL	POTENTIAL ADDITIONAL VISITATION EXPENDITURE
\$2 MILLION	\$50 MILLION	\$32.8 MILLION P/A



# Shire of Derby / West Kimberley

DATE: 16 November 2021

Andrew Murphy  
Main Roads WA  
Derby WA 6728

Dear Andrew,

**Re: Proposed Reclassification of Jetty Road, Derby.**

Thank you for your letter of 27 October, 2021 and we are pleased to be able to respond as follows:

**Confirmation of the operational status of the Derby Port and expected future activities:**

The Derby Port/Jetty is leased by the Shire from the WA State Government. The lease runs for 42 years and its expiry date is 29 June 2040. The Shire operates the Port under the direction of the Kimberley Ports Authority (the State's/Lessor's representative). The operational status of the Derby Port is that it is open for commercial use by port users on a 24/7/365 basis.

**Traffic Data for Jetty Road:**

Current larger vehicle traffic volumes (vis. excluding passenger vehicles) are estimated as per the below schedule:

LOADS	QTY	HV Type	Qty per HV	HV / year	HV / Week	ESA / HV	ESA / year
FUEL (litres)	23,178,366	Triples	90000	258	4.95	20	5,151
WATER (litres)	749,131	Semis	30000	25	0.48	6	150
FREIGHT (m3)	52,571	Triples	210	250	4.81	20	5,007
				<b>TOTALS</b>	<b>10.25</b>		<b>10,307</b>

ESA = Equivalent Standard Axles

Shire traffic count information has been forwarded under separate cover to Mr Peter Southern and a recent Infrastructure Study for the Jetty Precinct is also attached.

**Derby**

(08) 9191 0999 | 30 Loch Street  
sdwk@sdwk.wa.gov.au | PO Box 94, Derby WA 6728

**Fitzroy Crossing**

(08) 9191 5355 | Flynn Drive  
sdwk@sdwk.wa.gov.au | PO Box 101, Fitzroy Crossing

AEN: 99 934 203 082

[www.sdwk.wa.gov.au](http://www.sdwk.wa.gov.au)



## Shire of Derby / West Kimberley

### Confirmation of transportation of mineral sands by the Kimberley Mineral Sands/Thunderbird mine via Great Northern Highway/Derby Highway, to Derby Port for export:

Kimberley Mineral Sands has confirmed the transportation of mineral sands by the Kimberley Mineral Sands/Thunderbird mine via Great Northern Highway/Derby Highway, to Derby Port for export (see attached email). A copy of its estimated vehicle movements are outlined below:

Trucking duty	One way-km	147	
	Truck payload, t	115	
	Assumed Haulage Days per Year	334	
Truck movements ex-site		Stage 1	Stage 2
Daily	Truck round trips, # per day	24	39
	Truck one-way movements, # per day	48	79
Hourly	Truck round trips, # per hour	1	2
	Truck one-way movements, # per hour	3	4

### Estimated vehicle movements through to the Derby Port:

The current traffic volumes (provided separately to Mr Peter Southern) are expected to remain consistent into the future. Added to that of course is the forecast annual freight tonnage for the Kimberley Mineral Sands project, which is anticipated to commence mining/cartage within the next couple of years. The estimated vehicle payloads are outlined below and will increase tonnage throughput of the Derby jetty by a factor of greater than 1000%:

Product	Production Rate (tpa) (Average Per Annum over Period)	
	Stage 1 FY 2 to 4	Stage 1 Life of Mine
Zircon Concentrate	200,000	188,000
LTR Ilmenite	500,000	448,000
Titano-Magnetite	190,000	180,000

The type and axle configuration of the vehicles to be used for the task (RAV10 Super-quad, typically 25 or 26 axles).

#### Derby

(08) 9191 0999 | 30 Loch Street  
 sdwk@sdwk.wa.gov.au | PO Box 94, Derby WA 6728

#### Fitzroy Crossing

(08) 9191 5355 | Flynn Drive  
 sdwk@sdwk.wa.gov.au | PO Box 101, Fitzroy Crossing

ABN: 99 934 203 062

[www.sdwk.wa.gov.au](http://www.sdwk.wa.gov.au)



## Shire of Derby / West Kimberley



The Thunderbird project has a mine life estimated at 37 years.

Regards

Amanda Dexter  
Chief Executive Officer

### Derby

(08) 9191 0999

sdwk@sdwk.wa.gov.au

30 Loch Street

PO Box 94, Derby WA 6728

### Fitzroy Crossing

(08) 9191 5355

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Flynn Drive

PO Box 101, Fitzroy Crossing



# Derby Port – Critical Decisions Assessment

Users/Opportunities				
TOPIC	ISSUE	TIMELINE/ STAFF IMPAIRS	RISK	BUDGET
Kimberley Mineral Sands	Major potential user of existing jetty facility	Yellow	Yellow	Yellow
Buru	Opportunity to use new port as cheaper export point to Whyndham	Yellow	Green	Green
Cockatoo Island	Potential recommencement/expansion of it island operations	Yellow	Green	Red
Defence	Potential use for training site	Yellow	Green	Green
Tourism (fishing and tourist boats)	Potential tourism expansion	Yellow	Green	Green
Tourism (Industrial)	Small potential for “industrial/port tourism”	Yellow	Green	Green
MPA	Potential for use	Yellow	Green	Red

## Shire of Derby/West Kimberley

Shire of Derby/West Kimberley				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Overall Port Precinct	Oversee Redevelopment for Lease and Development Compliance			
Imminent Jetty Maintenance	Need to Project Manage this work			
Ongoing Jetty Maintenance	Need to Project Manage this work			
Strategic Plan	Priority of Port			
Port Viability	Financial Viability of existing port operations (and competition risks of Warburton/Ace proposal).			
Head Lease	Shire's commitment for maintenance?			
Head Lease	Risk of a Shire breach			Clause 6.4 requires an Asset Management Plan. Clause 7.6 - 7.9 requires maintenance in "good condition"; repair; replace; clean; to KPA's satisfaction.
Entrance Roads	Requires Upgrading at Shire Cost			Hopefully transfer to MRD.
Internal Roads and Turning Areas	Requires Upgrading at Shire Cost			
Sub-Lessees	Risk of Lessees not meeting their lease commitments to the Shire			

Sublessees	Opportunity for ongoing revenue stream	Green	Green	Green
Reducing Financial Revenues	Loss of commercial revenue from Wharf in favour of new "Duck-Pond"	Green	Yellow	Red

<b>Current leases</b>				
<b>TOPIC</b>	<b>ISSUE</b>	<b>TIMELINE/ STAFF IMPACTS</b>	<b>RISK</b>	<b>BUDGET</b>
Head Lease	Security of Tenure (21 years to 2040) Requirement to maintain assets and refurbish			
Head Lease for Barge Ramp Lease	Security of Tenure (21 years to 2038)			
Colonial Marine Consultants (CMC)	<p>Sub-Lease expired 31/10/2016. MOU (to allow a feasibility study and then a development application to be submitted) expired 30 June 2017.</p> <p>Currently in monthly “hold-over” with lessee meeting lease conditions (including approx. \$34,000pa lease payments).</p> <p>Uncertainty over MOU areas – “Subject Land” and “Development Area”.</p> <p>MOU outlines in clause 4(2) the Shire may terminate the MOU if it suspects that “land Banking” is occurring.</p>			
CMC	Potential loss of \$33,000pa income			
MPA - Marine Products Australia	Potential loss of long term port revenue (to Warburton/Ace facility)			
Kimberley Mineral Sands (Thunderbird)	Potential loss of \$135,000pa income (22 years to 2040)			
Kimberley Mineral Sands (Thunderbird)	Shire cost commitment to Jetty			

Barge Access	No License to use by Mount Gibson			
Barge Access	Potential damage by Mount Gibson			
Derby Volunteer Marine Rescue	Current Lease in place (\$100pa for 10 years to 2029)			
Warburton/Ace	development area lease (\$5pa – to December 2019 but subject to Force Majeure)			
Warburton/Ace	Opportunity to renegotiate for new “duck-pond” area. Possibly a longer term royalty payment in exchange for giving up part of the DoT lease area.			
Warburton	Monitoring and managing lease milestones			
Restaurant	Demolished. Now a Casual Space			
Boat Trailer Licences	Boat Trailed Leases are now in place, however site activities need to be managed			

## Future leases

Future leases				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Warburton/Ace	Moves from development lease to land lease with DoT (subject to imminent negotiation).			
Warburton/Ace	Link milestones to tenure and/or penalties, or link new “duck-pond” area to a longer term royalty payment in exchange for giving up part of the DoT lease area.			
Warburton/Ace	<del>Modify lease to align risk/indemnity with Shire’s head lease with DoT.</del>			
Other new stakeholders	Future potential leases			

## Community Use

Community Use				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Jetty Walk	Continued access and usage could be impinged by land based industrial development.			

Risk				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Insurance Coverage	Insured through LGIS			Proposed to be now paid by Kimberley Mineral Sands, OR, converted to Removal of Debris Only Policy
Economic harm to the Shire (as head lessee)	Compensation/indemnity risk from accident or cyclones. Loss of future revenues from port damage			
Public Liability	Risk of public use			
Silting of Wharf area	Silting resulting from "duck-pond"			
Sub-Lease Indemnities	All need to be aligned to Shire's Head Lease for compensation/liability/risk			



**Warburton lease renegotiation (to secure additional land - for  
“duck-pond” area)**

TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Existing lease revenue security	Retain \$30,000 lease fee from within the new Warburton Lease			
Ensure progress with proposed project	Renegotiate milestones (and link to lease tenure, penalties?)			
Control of land	Loss of land control when development lease converts to land lease with DoT		Renegotiate Development Lease - Boat Ramp? Indemnity? Development near town? Jetty Walk? Road access?	
Ongoing Revenue	Negotiate trailing commission in exchange for expanded “duck-pond” area			Obtain KPA commitment to a “Shire Fee” to replace existing wharf income and to ensure wharf sustainability.

## Local government Act

Local government Act				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Section 3.59	Major Land Transaction (vis. approx. \$1m)		Is its value over \$1m?	
Section 3.57	Tenders for and construction that is Shire responsible for.			
Council Governance	Legislative compliance generally			

## Environmental

TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Warburton Proposal	Approvals requirements and timelines for overall development			
Warburton Proposal	Any conflict of community values – mangrove/river/tidal areas v's new port	Need to ensure there is a good community engagement process in place.		

## Flow on benefits

Flow on benefits				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Economic Development	Town business growth potential			
Community Services	Improved government services to locate to Derby,			
Kimberley Develop Commission	Kimberley Develop Commission office reopens in Derby?			
Local Housing	New in-fill housing across the town.			
Recognition	District recognition as a new commercial hub.			

## Threats

Threats				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Economics	Economics impacting the port users		Develop Stakeholder list and maintain engagement	
Politics	Politics – state and federal		Develop Stakeholder list and maintain engagement	
Time	Time available by stakeholders to secure the opportunity		Ensure that the project has sufficient Shire resources to not be the “bottle-necked”	
Timing	Timing of any proposal to stakeholders/government		Develop Stakeholder list and maintain engagement	
Cost	Cost blowout during construction derails completion		Develop Stakeholder list and maintain engagement	

## Stakeholder Coordination

Stakeholder Coordination				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Private and corporate interests (existing)	Ensure current corporate stakeholders understand and are aligned with the Shire's view and goals		Develop Stakeholder list and maintain engagement	
Community	Ensure current corporate stakeholders understand and are aligned with the Shire's view and goals		Develop Community Engagement Strategy (and implement!)	
Lessees (existing)	Ensure current corporate stakeholders understand the Shire's capacity to facilitate development		Develop Stakeholder list and maintain engagement	
Council	Keep Council informed and have information for decision making			
Future potential uses	Keeping informed of potential users and engaging with them			

## Western Australian State Government Position

Western Australian State Government Position				
TOPIC	ISSUE	TIMELINE/ STAFF IMPAIRS	RISK	BUDGET
Kimberley Development Commission's "Blueprint"	Ensure its influence and the Blueprint is to positively support the Port's redevelopment		Put KDC on Stakeholder List and maintain engagement	
Kimberley Ports Authority/Department of Transport	Ensure it is on-side with sub-lease arrangements and consistent with its future intentions for Derby Port		Put DoT and KPA on Stakeholder List and maintain engagement	

## Federal Government Position

Federal Government Position				
TOPIC	ISSUE	TIMELINE/ STAFF IMPAIRS	RISK	BUDGET
Infrastructure Australia (Northern Australia Infrastructure Funding)	Maintaining a contact in a stakeholder capacity		Put IA on Stakeholder List and maintain engagement	
Australian Government Agencies	Export and foreign arrangement notifications		Put relevant Agencies on Stakeholder List and maintain engagement	



## Indemnity/Insurance

Indemnity/Insurance				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Insurance Risk	ARG Reinsurance has rated the Derby Port as the highest risk of the Kimberley		Ensure Head Lease conditions for maintenance are kept up. Maintain LGIS insurance	Maintain LGIS insurance
Type of Construction	It's a single "stick" structure, out of the water, not well maintained.		Maintain LGIS insurance	Maintain LGIS insurance
Geographical Risks	\$100,000 for cyclones, otherwise \$50,000			Maintain LGIS insurance
Insurance Premium	Existing premium.			Maintain LGIS insurance
Insurance Premium	Can the premium be reduced? – Potential to have the head lease changed to only insure for partial loss/removal of debris only of the destroyed jetty? – premium would reduce.		Maintain LGIS insurance.	KMS now pays premium (but cost is deducted from the Shire's "Additional Payments" lease allocation).
LGIS	Would LGIS fund an accounting study to guide Council on the future of the port as a commercial/recreational facility? – LGIS Member Experience Account		LGIS unlikely to commit to such a proposal	

## Fatal flaws

Fatal flaws				
TOPIC	ISSUE	TIMELINE/ STAFF IMPACTS	RISK	BUDGET
Economic Analysis	Economic analysis not completed or not favourable	Use consultants to prepare.	Risk Analysis to be undertaken	Financial Plan to be undertaken
Commercial viability	Commercial viability of development potentials		Risk Analysis to be undertaken.	
Structural condition	Structural condition of assets existing assets.		<p>Complete maintenance report and costings.</p> <p>Loan fees might not be funded from ongoing KPA Fee is proposal fails.</p>	<p>Potential for Kimberley Mineral Sands revenues to meet these costs.</p> <p>Or..., Obtain KPA commitment to a "Shire Fee" to replace existing wharf income and to ensure wharf sustainability.</p> <p>Or..., Short term Loan to be funded from above fees.</p>
Financial capacity	Financial capacity of Shire of Derby/West Kimberley to operate and maintain the Derby Port facility			Obtain KPA commitment to a "Shire Fee" to replace existing wharf income and to ensure wharf sustainability.
State Government	State Government's Kimberley policy		Maintain an engagement with DoT;	

			<p>KPA; and State Government to ensure risk is minimised,</p> <p>Renegotiate lease from DoT to secure Shire's financial position for a KPA "Shire Fee".</p>	
Timing	Timing of projects commencing is unknown			

## ISSUES FOR COUNCIL NOTE/CONSIDERATION

### Site Users/Opportunities

- MPA,
- Kimberley Mineral Sands,
- Buru,
- Defence,
- Cockatoo Island,
- Warburton (and lease negotiation),
- Tourism (fishing and tourist boats),
- Tourism (Industrial),
- Casual Dining.

### Shire of Derby/West Kimberley

- Will need to retain specific disciplines to prepare the Masterplan,
- Will need to manage the redevelopment project to ensure it meets its legal and development obligations,
- Where does the port fit into the long-term priorities of the Shire?
- What is the Port's facility viability into the longer term?
- Maintenance responsibility for the existing port facilities under the lease with Department of Transport?
- Does the Shire maintain the Port to its required standard?
- Will the entrance roads sustain increased usage?
- Who will be responsible for the upgrade of the entrance roads and turning points?
- How does the Port maintain sustainability if the Warburton/ACE alternative port is developed? What fee/commission should apply to achieve that?

### Current leases

- Port - Shire with Department of Transport (21 years to 2040),
- Barge Ramp - Shire with Department of Transport (21 years to 2038),
- CMC (Areas 1, 2 and 3, and the Development Area – Month by Month Holding Over),
- Marie Products Australia (Lease are 2, and 3 on Jetty – expiring 2023)
- Kimberley Mineral Sands/Sheffield Resources (Thunderbird) – loading conveyors and storage area (includes sub-lease to Mt Gibson) – 22 years to 2040,
- Derby Volunteer Marine Rescue (10 years to 2029),

- Warburton/Ace – development area lease,
- Mount Gibson use barge ramp (licence required?).

### **Future leases**

- Shire with Department of Transport/Kimberley Port Authority for Port (in whole or in part)?
- Warburton – moves from development lease to land lease.
- Other new stakeholders?

### **Community Use**

- Need to retain access for recreation, fishing, tourism, boating, etc

### **Risk**

- Cyclones,
- Wharf damage,
- Economic harm to the Shire (as head lessee),
- Public Liability?
- Silting resulting from “duck-pond”;
- Leases all need to be aligned to Shire’s Head Lease for compensation/liability/risk.

### **Warburton lease renegotiation (to secure expanded “duck-pond” area)**

- Expanded land area sought in the past,
- Renegotiate milestones and link to lease tenure.

### **Local government Act**

- Section 3.58 and 3.59 (land leases/sales)?
- Tenders for and construction of Shire responsibility areas.

### **Environmental**

- Research to be undertaken by developers to prove environmentally suitable?
- Approvals requirements and timelines for overall development?
- Any conflict of community values – mangrove/river/tidal areas v’s new port?

## **Flow on benefits**

- Local employment to be created,
- Town business growth potential,
- Improved government services to locate to Derby,
- Kimberley Develop Commission office reopens in Derby,
- New in-fill housing across the town,
- District recognition as a new commercial hub.

## **Threats?**

- Broome Port competition making Derby option less viable?
- Economics of the region's port users?
- Politics – state and federal?
- Time available to secure the opportunity?
- Timing of any proposal to stakeholders/government?
- Cost blowout during construction derails completion.

## **Stakeholder coordination**

- State and Federal governments,
- Private and corporate interests (existing),
- Lessees (existing),
- Community,
- Traditional Owners,
- Council,
- Future potential uses.

## **Western Australian State Government Position**

- Kimberley Port Authority?
- Kimberley Development Commission's "Blueprint"?
- Department of Transport?

## **Federal Government Position**

- Defence?
- Infrastructure Australia (Northern Australia Infrastructure Funding)?

## **Indemnity/Insurance (LGIS)**

- Near future structural work required (\$7m?)
- ARG Reinsurance has rated the Derby Port as the highest risk of the Kimberley
- It's a single structure, out of the water, not well maintained.
- Excess - \$100,000 for cyclones, otherwise \$50,000
- Can the premium be reduced? – what if the head lease changed to only insure for partial loss/removal of debris only of the destroyed jetty? – premium would reduce.
- Would LGIS fund an accounting study to guide Council on the future of the port as a commercial/recreational facility? – LGIS Member Experience Account?

## **Fatal flaws**

- Master plan not completed,
- Economic analysis not completed or not favourable,
- Commercial viability of development potentials,
- Structural condition of assets existing assets,
- Financial capacity of Shire of Derby/West Kimberley,
- State governments Kimberley policy,
- Timing.