



**Shire of Derby /  
West Kimberley**

# **CONFIRMED MINUTES**

**Ordinary Council Meeting**

**Thursday, 25 May 2023**

**Date: Thursday, 25 May 2023**

**Time: 1:00pm**

**Location: Fitzroy Crossing**



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**MINUTES OF SHIRE OF DERBY / WEST KIMBERLEY  
ORDINARY COUNCIL MEETING  
HELD AT THE FITZROY CROSSING  
ON THURSDAY, 25 MAY 2023 AT 1:00PM**

**PRESENT:** Cr Geoff Haerewa (Shire President), Cr Peter McCumstie (Deputy Shire President), Cr Paul White, Cr Geoff Davis, Cr Andrew Twaddle, Cr Rowena Mouda and Cr Keith Bedford.

**IN ATTENDANCE:** Amanda Dexter (Chief Executive Officer), Wayne Neate (Director Technical and Development Services), Christie Mildenhall (Acting Director of Community Services), Tamara Clarkson (Acting Director of Corporate Services), Callum Murray (Governance Officer), Sarah Smith (Executive Services Coordinator) and Maria O'Connell (Executive Services Administration Officer).

**VISITORS:** Nil

**GALLERY:** Nil

**APOLOGIES:** Nil

**APPROVED LEAVE OF ABSENCE:** Cr Pat Riley

**ABSENT:** Cr Linda Evans

**1 DECLARATION OF OPENING, ANNOUNCEMENTS OF VISITORS**

The meeting was opened at 1:08pm by Geoff Haerewa.

**2 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS**

A Councillor may attend council or committee meetings by electronic means if the member is authorised to do so by the President or the Council. Electronic means attendance can only be authorised for up to half of the Shire's in-person meetings they have attended in total, in any rolling 12 months prior period. Authorisation can only be provided if the location and the equipment to be used by the Councillor are suitable to enable effective, and where necessary confidential, engagement in the meeting's deliberations and communications.

**3 DISCLOSURE OF INTERESTS**

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected Member or officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of the interest must also be stated.



**3.1 Declaration of Financial Interests**

- Nil.

**3.2 Declaration of Proximity Interests**

- Cr Geoff Haerewa – Item 14.3 – Request to Close Holland Street, Derby and to Amalgamate with Adjoining Land  
**Nature:** Neighbour to property.

**3.3 Declaration of Impartiality Interests**

- Nil.

**4 APPLICATIONS FOR LEAVE OF ABSENCE**

- Nil.

**5 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****5.1 Kevin Muller – Resident**

1. Start/Formation of a non-discriminating weekly meditation group:	The Shire is committed to encouraging opportunities which enhance community wellbeing. We will make enquiries to see if we can work with local community organisations and service providers to gauge interest in establishing a meditation group. This may be provided on a fee for service basis.
2. Provide 36 fruit trees for the verge areas of Barnett Way, with street competition of the most aesthetically pleasing and practical verge garden, with mulch supply provided to individual sites by Council:	<p>The idea has merit and the Shire has been exploring the opportunity to promote a street verge competition, but if the Shire was to progress such an initiative, it would need to be undertaken on a shire-wide basis, not just for a single street in Derby. Consideration as to whether Council could fund such a proposal will be given as part of the 2023/24 budget.</p> <p>If adequate resourcing can be located, the outcome could potentially include utilising local groups like the Derby Landcare Group or the CWA. These groups have historically engaged in for example, street beautifications projects, and garden and produce events.</p>
3. Host weekly non-discriminatory cinema movies at either the Civic Centre or another suitable venue and other community activities:	The Shire already undertakes a wide range of community development initiatives across the district and this suggestion has merit to be added to that existing list. We understand there is a community desire for movie events and there is currently an ad-hoc program of movies shown through various community organisations in Derby. The Shire runs movie events through the Derby Memorial Swimming Pool and our youth programs in Derby and Fitzroy Crossing. There are also other agencies who occasionally run movie sessions. These are primarily held during the dry season as outdoor venues generally provide better spaces. Opportunities to hold

	additional events, which do not clash with other activities, are being explored and consideration as to whether Council could fund these additional services will be given as part of the 2023/24 budget.
4. Start a Recycling Centre one day per week for second hand for building materials, household furniture and general items:	<p>The Shire contracts out its refuse removal pick up and tip operations to a private contractor, so any access to recyclable goods would need to include engagement/negotiation with that business. A recycling service already exists but it is limited and does not include the services suggested in the question. The current cost of the existing refuse service already exceeds the annual rubbish removal charge revenues raised and further inflationary related contractor cost increases are expected in 2023/24. Whilst the idea has merit it is not proposed that the Shire would provide such a service at this point in time, as it is unlikely to be cost neutral and adding further costs to the service charge for this proposal is not considered reasonable.</p> <p>The Shire would however, consider supporting a proposal from a third party if it could be provided without any cost to the Shire and its annual user rubbish charges. Relevant to that point, there are existing opportunities for household furniture and general items to be donated to local community groups, such as Nunga Women's and the Women's Shelter. This can be done by contacting the organisations directly. There is also the GIVIT platform (<a href="https://www.givit.org.au/kimberley-flooding">https://www.givit.org.au/kimberley-flooding</a>) as part of the recovery process from the Kimberley floods where individuals can donate items. A wide range of items can be accepted including household items and building materials, etc.</p>

## 6 PUBLIC TIME

### 6.1 Public Question Time

- Nil.

### 6.2 Public Statements

- Nil.

## 7 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

- Nil.

## 8 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

- Nil.

**9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**RESOLUTION 47/23**

**Moved: Cr Peter McCumstie**

**Seconded: Cr Geoff Davis**

**That the Minutes of the Ordinary Meeting of the Shire of Derby/West Kimberley held at the Council Chambers, Clarendon Street, Derby, on 27 April 2023 be CONFIRMED.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**

**10 RECOMMENDATIONS AND REPORTS OF COMMITTEES****10.1 MINUTES OF THE AUDIT COMMITTEE MEETING HELD ON 18 MAY 2023****File Number: 4110****Author: Sarah Smith, Executive Services Coordinator****Responsible Officer: Amanda Dexter, Chief Executive Officer****Authority/Discretion: Executive****SUMMARY**

For Council to receive the minutes of the Audit Committee Meeting held on 18 May 2023.

**ATTACHMENTS****1. Minutes of the Audit Committee Meeting held on 18 May 2023****RESOLUTION 48/23****Moved: Cr Andrew Twaddle****Seconded: Cr Geoff Davis****THAT COUNCIL:**

**Receive the Minutes of the Audit Committee Meeting held on 18 May 2023 and the recommendations therein be adopted.**

**In Favour:** Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

**Against:** Nil

**CARRIED 7/0****COMMITTEE RESOLUTION AC48/23****Moved: Cr Geoff Haerewa****Seconded: Cr Peter McCumstie**

**That the Audit Committee recommends that Council:**

**Notes the List of Accounts for April 2023 paid under Delegated Authority in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996 attached to this report, totalling \$1,772,524.86.**

**In Favour:** Crs Geoff Haerewa, Peter McCumstie and Andrew Twaddle

**Against:** Nil

**CARRIED 3/0****COMMITTEE RESOLUTION AC49/23****Moved: Cr Geoff Haerewa****Seconded: Cr Peter McCumstie**

**That the Audit Committee recommends that Council resolve by ABSOLUTE MAJORITY to:**

- 1. Give one month's local public notice of the continuance of the Short-Term Lending facility;**
- 2. Require the Chief Executive Officer (subject to there being no adverse responses to the public consultation invitation outlined in [1] above) to apply to the Western Australia Treasury Corporation for access to a \$5,000,000 up to three year Short-term Master Lending Agreement with funds to be used to address the Shire's periodic short-term negative cash-flow events, including for example, start/end of financial year periods, situations brought about by ex-Tropical Cyclone Ellie related projects, disaster recovery/weather event road flood damage projects, and the Fitzroy Crossing Air-strip Refurbishment Project; and**
- 3. Require the Chief Executive Officer to include the consideration of the need for an ongoing loan/overdraft facility within all future Shire budgets.**

In Favour: Crs Geoff Haerewa, Peter McCumstie and Andrew Twaddle

Against: Nil

**CARRIED 3/0**

#### **COMMITTEE RESOLUTION AC50/23**

**Moved:** Cr Peter McCumstie

**Seconded:** Cr Geoff Haerewa

**That the Audit Committee recommend to Council that it adopt by Absolute Majority, the attached policy titled, "*C12 - Elected Member Fees and President's Allowances*".**

In Favour: Crs Geoff Haerewa, Peter McCumstie and Andrew Twaddle

Against: Nil

**CARRIED 3/0 BY ABSOLUTE MAJORITY**

#### **COMMITTEE RESOLUTION AC53/23**

**Moved:** Cr Geoff Haerewa

**Seconded:** Cr Peter McCumstie

**That the Audit Committee recommends that Council:**

**RECEIVES the Monthly Financial Management Report incorporating the Statement of Financial Activity for the period ending 30th April 2023.**

In Favour: Crs Geoff Haerewa, Peter McCumstie and Andrew Twaddle

Against: Nil

**CARRIED 3/0**

#### **COMMITTEE RESOLUTION AC55/23**

**Moved:** Cr Geoff Haerewa

**Seconded:** Cr Peter McCumstie

**That the Audit Committee recommends that Council:**

- 1. RECEIVES the report on outstanding rates and service charge debts by financial year to**

**the end of April 2023.**

In Favour: Crs Geoff Haerewa, Peter McCumstie and Andrew Twaddle

Against: Nil

**CARRIED 3/0**

**COMMITTEE RESOLUTION AC56/23**

**Moved:** Cr Geoff Haerewa

**Seconded:** Cr Peter McCumstie

**That the Audit Committee recommends that Council:**

- 1. RECEIVES the information contained in the report detailing Sundry Debtors as at 30 April 2023.**

In Favour: Crs Geoff Haerewa, Peter McCumstie and Andrew Twaddle

Against: Nil

**CARRIED 3/0 BY ABSOLUTE MAJORITY**

**REPORTS****11 EXECUTIVE SERVICES****11.1 MINUTES OF THE JOINT MEETING OF THE KIMBERLEY ZONE AND KIMBERLEY REGIONAL GROUP HELD 13 APRIL 2023****File Number:** 4221**Author:** Amanda Dexter, Chief Executive Officer**Responsible Officer:** Amanda Dexter, Chief Executive Officer**Authority/Discretion:** Advocacy**SUMMARY**

This report presents for Council endorsement the Minutes from the Joint Meeting of the Kimberley Zone of the Western Australian Local Government Association (WALGA) and the Kimberley Regional Group held on 13 April 2023.

**DISCLOSURE OF ANY INTEREST**

Nil by Author and Responsible Officer.

**BACKGROUND**

A copy of the minutes from the joint meeting held 13 April 2023 between members of the Kimberley Zone of WALGA (Zone) and Kimberley Regional Group (KRG) is attached for Council consideration.

As a result of a past decision of the group, both the Kimberley Zone and KRG meetings are joined.

It should be remembered that the Kimberley Zone of WALGA is a group established to represent regional issues to the State Council of WALGA. This group includes the four Kimberley Shires in addition to the Shires of Christmas Island and Cocos Keeling Islands.

The KRG is a group defined through a deed of agreement between the four Kimberley local governments with the Minister for Local Government.

The Shire of Wyndham East Kimberley accepted the Secretariat role for the Kimberley Zone / KRG late in 2021, with the formal transition to the Secretariat underway. WALGA is also supporting the Zone/ Group with a level of secretariat provided through them as well.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

**STRATEGIC IMPLICATIONS**

GOAL	OUTCOME	STRATEGY
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation.	1.2.1 Provide strong civic leadership. 1.2.2 Provide strong governance.

**RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Community:</b> That the Shire's interests and contribution to the zone are represented and reflect the views of the community	Unlikely	Minor	Low	Minutes received and endorsed by Council to allow for transparency and assist zone attendees with clear direction

**CONSULTATION**

Nil.

**COMMENT**

Key discussion points for Councillors Consideration

- Report Presented on the Outcome of the Canberra Visit and the Meetings attended.
- Review of the Kimberley Regional Group Governance Agreement:
  - Whilst this agreement is still under review it was proposed that a MOU be signed which outlines the spirit of collaboration and cooperation on Kimberley wide issues, which references the Governance Agreement to ensure that governance protocols are recognised.
  - Ongoing discussion will be undertaken to establish the way forward in regard to the constitution of the Group – the secretariat will develop a discussion paper which outlines potential governance arrangements for consideration.
- Strategic Workshop Report: - *See attached Document for more detail.*
  - The Kimberley Regional Group Business Plan 2021-2025 has 20 outcomes, supported by 36 strategies, and 55 actions. The purpose of the workshop was to review and prioritise the priority projects and activities within the Business Plan by understanding the broader operating context of the KRG, and past actions to inform future direction, and to identify agreed key strategic projects for the next two years.
  - Key priority Areas Identified





- Housing, Crime Reduction and Community Safety, prosperous and diverse Economy, Substance Abuse – Alcohol and other drugs, Education, Local Government Sustainability.
- Presentation from State Recovery Coordinator Rob Cossart.

**VOTING REQUIREMENT**

Simple majority

**ATTACHMENTS**

1. Minutes - Kimberley Regional Zone and Group - 13 April 2023  

**RESOLUTION 49/23**

**Moved:** Cr Keith Bedford

**Seconded:** Cr Paul White

**That Council:**

**Receives and endorses the resolutions of the Kimberley Zone of WALGA and Kimberley Regional Group as attached in the minutes from the Joint Meeting held 13 April 2023.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**



THE  
**KIMBERLEY**  
**REGIONAL GROUP**

## Meeting Minutes

13 April 2023

In Person at City of Perth Council Offices

Or

Join Zoom Meeting

<https://us02web.zoom.us/j/86190586584?pwd=TVluL1lob29jalorZEVlQjhRVUlsdz09>

Meeting ID: 861 9058 6584, Passcode: 835617

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## Meeting Open: 15:15pm

1. Chair acknowledged the Traditional Custodians of the different lands on which people are meeting today, and to paid respect to all the Elders past, present and emerging.

## 2. Attendance and Apologies

Name	Shire / Council / Organisation	Method
<b>Members</b>		
Cr Chris Mitchell	Shire of Broome	In person
Cr Geoff Haerewa	President, Shire of Derby West Kimberley	In person
Cr Malcolm Edwards	President, Shire of Halls Creek	Zoom
Cr David Menzel	President, Shire of Wyndham East Kimberley	In person
<b>Observers</b>		
Sam Mastrolembro	CEO, Shire of Broome	In person
James Watt	Director Corporate Services, Shire of Broome	Zoom
Peter McCumstie	Deputy President, Shire of Derby West Kimberley	Zoom
Neil Hartley	Director Strategic Business, SDWK	In person
Phillip Cassell	CEO, Shire of Halls Creek	Zoom
Cr Tony Chafer	Deputy Shire President, SWEK	Zoom
Vernon Lawrence	CEO, Shire of Wyndham East Kimberley	In person
<b>Executive Support Team</b>		
Paul Rosair	Principal, NAJA Business Consulting Services	In person
Michelle Mackenzie	Principal, Mira Consulting	Zoom
Jane Lewis	Principal, Redit Research	In person
Josh Turner	NAJA Business Consulting Services	In person
<b>Apologies</b>		
Cr Desiree Male	President, Shire of Broome	
Amanda Dexter	CEO, Shire of Derby West Kimberley	
Nick Kearns	Director of Planning / Community SWEK	

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Name	Shire / Council / Organisation	Method
Guests		
Rob Cossart	State Recovery Coordinator	In Person
Christine Comer	Assistant Director WA and SA. National Emergency Management Agency	In Person
Glenn Mace	Executive Director Service Delivery, Department of Communities	In Person
Stuart Cowie	SWICC, Department of Communities	

### 3. Disclosures, Conflicts and Declarations of Interest:

Financial Interest / Impartiality			
Member	Item Number	Item	Nature of Interest
Nil			

### 4. Minutes of the last meeting

#### Item for Decision

Submitted by: Secretariat

Attachment 1: Matters Arising and Outstanding Business

### Confirmation of Previous Minutes

Resolution/s	Action(s) / Budget Implications
That the Minutes of the Kimberley Regional Group held on 17 February 2023, as published and circulated, be confirmed as a true and accurate record of that meeting.	See Attachment 1 – Matters Arising and Outstanding Business

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<b>Moved:</b>	SDWK	<b>Responsible:</b>	See Attachment
<b>Seconded:</b>	SoB	<b>Due date:</b>	As appropriate
<b>Carried: 4 / 0</b>			

Attachment 1 Matters Arising and Outstanding Business

Date / Item	Action / Progress	Responsible
<b>North West Defence Alliance (NWDA) Funding Request</b>		
24/8/2022 Item 11.4	<p><b>Action:</b> The KRG approves, in principle, a contribution up to \$40,000 from the KRG surplus for the 2022-23 financial year, towards the lobbying and advocacy efforts of the North West Defence Alliance, subject to the development of a formal budget to be considered by circular resolution.</p> <p><b>Status / Progress:</b> Cr Haerewa to liaise with Secretariat</p>	Cr Haerewa and Secretariat
<b>Kimberley Regional Group Memorandum of Understanding</b>		
21/6/2022 Item 9.4	<p><b>Action:</b> MOU to be finalised</p> <p><b>Status / Progress:</b> Executive Officer discussed with Secretariat and CEO's. A final MOU to be tabled at April meeting. Governance arrangements to be discussed.</p>	Members and Executive Officer
<b>Resilience and Recovery</b>		
18/02/2023 Item 8	<p><b>Action:</b> Executive Team to contact Rob Cossart, State Recovery Coordinator. Look at opportunities to be involved with the review of DRFAWA.</p> <p><b>Status / Progress:</b> The CEO SDWK has been liaising with the State Recovery Co-ordinator. The Commonwealth Review of DRFAWA, led by Andrew Colvin APM OAM, will determine the strengths and weaknesses of the current system to help bolster WA's resilience to hazards. It is expected to be completed by 2024. The KRG could consider submission into the review.</p>	Executive Officer and CEO SDWK
<b>Media Policy</b>		
18/02/2023 Item 10	<p><b>Action:</b> The Executive Team to update the draft media and communications policy to with a modification to "Speaking on behalf of the Kimberley Regional Group" to include the Secretariat.</p> <p><b>Status / Progress:</b> Resolved</p>	Executive Officer

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Date / Item	Action / Progress	Responsible
<b>KRG Website</b>		
18/02/2023 Item 11	<p><b>Action:</b> Executive Team and Secretariat to negotiate a contract and purchase order with the chosen web developer.</p> <p><b>Status / Progress:</b> The website is in development. Content will need to be written for the site in partnership with the members, and approved by the KRG, before it goes live.</p>	Executive Team
<b>General Business</b>		
18/02/2023	<p><b>Action:</b> Insurance Costs: Executive Officer EO to discuss with CEO Broome and talk to Jonathan Seth, CEO LGIS regarding relief on Insurances as a result of impact of the floods.</p> <p><b>Status / Progress:</b> Jonathan Seth is no longer the CEO. Contact is being made with James Sheridan, the new CEO.</p>	Executive Officer
18/02/2023	<p><b>Action:</b> April meeting to be changed to a Perth venue. Executive Team to organise.</p> <p><b>Status / Progress:</b> The Executive Team has secured the City of Perth for the meeting.</p>	Executive Assistant
18/02/2023	<p><b>Action:</b> Letter to be sent on behalf of the KRG to request that funding from the Lord Mayors Distress Relief Fund be directed to evacuation centres across the Kimberley.</p> <p><b>Status / Progress:</b> Correspondence was sent to the City of Perth. Awaiting a response.</p>	Executive Assistant

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Watching Brief
Federal Grant Growing Regions Program - Information on program guidelines, eligibility criteria and the application process will be provided by the Commonwealth in due course.
Minister McBain Kimberley Tour – await sitting dates for Parliament (in contact with Gabrielle Said)
Aboriginal Heritage Act third round approx. Feb 2023. EO spoke to Anthony Kannis, DG DPLH
WA Development Index – response received from the Department of Local Government, Sport and Cultural Industries. Tabled in correspondence.
Banned Drinkers register - The McGowan Government advised on the 2nd of March 2023 that it will introduce new legislation to parliament as soon as possible to strengthen the Banned Drinkers Register. It is anticipated that many of the recommendations made by the KRG will be addressed in this legislation.
State government funding to address juvenile crime in the Kimberley – response received from the Department of Justice. Tabled in correspondence. The Kimberley Aboriginal Youth Wellbeing Steering Committee is key to recommending funding partnerships with government for youth projects across the Kimberley. The KRG is an observer on this committee. See correspondence.

Resolved
Media and Communications Policy and Stakeholder Engagement Plan
Letters of congratulations to new State Ministers
Audited statements circulated
KRG meeting dates set and circulated
Service Level Agreement
Policy Position Papers
Investment Prospectus



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## 5. Correspondence

### Item for Noting

Submitted by: Secretariat

Attachment 2: Correspondence In: Dr Adam Tomison, Aboriginal Justice Transformation  
 Attachment 3: Correspondence In: Kimberley Aboriginal Youth Wellbeing Team  
 Attachment 4: Correspondence In: WA Development Index  
 Attachment 5: Correspondence In: Online Composite Engineering  
 Attachment 6: Correspondence Out: Kimberley Aboriginal Youth Wellbeing Team

Note: Correspondence considered of an administrative nature, will not be tabled.

Correspondence In	
Date	14/02/2023
From	Adam Tomison, Director General Department of Justice
Topic	Kimberley Juvenile Justice Strategy (KJJS)
Attachment	2
Date	27/03/2023
From	Kimberley Aboriginal Youth Wellbeing Team
Topic	Kimberley Aboriginal Youth Wellbeing Steering Committee
Attachment	3 - also includes email attachments
Date	27/02/2023
From	Jennifer McGrath, Deputy Director General, DLGCI
Topic	KRG Support for the WADI - Response
Attachment	4
Date	30/03/2023
From	Online Composite Engineering
Topic	New product release - Cementcrete Composite Blanket
Attachment	5
Correspondence Out	
Date	28/03/2023
From	CR David Menzel, KRG Chair
To	Kimberley Aboriginal Youth Wellbeing Team
Topic	Kimberley Aboriginal Youth Wellbeing Steering Committee
Attachment	6

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Resolution/s		Action(s) / Budget Implications	
That the Correspondence be received and noted, and that the Executive Officer be directed on a response, if required.		Nil	
Moved:	SoB	Responsible:	Executive Support Team
Seconded:	SWEK	Due date:	As appropriate
Carried: 4 / 0			

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## Attachment 2 Correspondence In: Kimberley Juvenile Justice Strategy (KJJS)

From Adam Tomison, Director General Department of Justice 14/02/2023



Government of Western Australia  
Department of Justice  
Office of the Director General

All enquiries: Gina Hill, Director, Aboriginal Justice Transformation  
Phone: 9264 6495  
Our Ref: D23/208579

Ms Michelle Mackenzie  
Principal  
Mira Consulting  
PO Box 621  
HALLS CREEK WA 6770

Dear Ms Mackenzie

**Response to information request from the Kimberley Regional Group**

Thank you for your email dated 4 February 2023 in which you requested information on behalf of the Kimberley Regional Group, regarding the Kimberley Juvenile Justice Strategy (KJJS).

As you may be aware, the KJJS is led by the Department of Justice. It aims to work in partnership with the Kimberley community to develop local solutions to keep young people out of the justice system.

The KJJS commenced in 2019 with initial Royalties for Regions funding of \$900,000 over a three-year period. This supported extensive Kimberley-wide community consultation and initial place-based activities. In March 2020, the State Government announced KJJS funding of \$6.2 million, part of its Commitment to Aboriginal Youth Wellbeing. Of this \$6.2 million, \$1.2 million was utilised to deliver the North Regional TAFE alternative education program in Broome and Kununurra. The remaining funding was allocated to place-based initiatives across the Kimberley.

As part of the 2021-22 State Budget, an additional \$7.8 million was allocated to continue KJJS, and establish a new night patrol program in Fitzroy Crossing and to explore options for safe places and on-Country alternatives to detention.

The majority of KJJS grants are delivered by Aboriginal Community Controlled Organisations. The remainder are delivered by local governments. KJJS funds a range of place-based activities that are currently operational in Broome, Derby, Fitzroy Crossing, Halls Creek, Kununurra and Wyndham.

The KJJS is not a document, but rather a suite of initiatives. The Department would be pleased to meet with the KRG to discuss the KJJS, and I extend an offer for Ms Gina Hill, Director Aboriginal Justice Transformation, to do so. I note a similar briefing was provided to the Shire of Broome.

In response to your question regarding the \$40.4 million Kimberley Youth and Community Justice Response (Kimberley Response) announced in May 2022, this is

David Malcolm Justice Centre  
28 Barrack Street PERTH WA 6000  
GPO Box F317 PERTH WA 6841  
Phone: (08) 9264 1600 Fax: (08) 9264 1121  
www.justice.wa.gov.au

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a cross-portfolio package that is complementary to the KJJS, delivered by a range of agencies outside of the Department of Justice.

Under the Kimberley Response, the Kimberley Development Commission (KDC), Department of Communities (Communities), Department of Education (Education) and the Western Australia Police Force (WAPOL) are working closely together to deliver a package of initiatives, with support from Justice, where applicable. The Department of the Premier and Cabinet (DPC) and the Department of Treasury are also involved as central agencies.

The table below provides a breakdown of each initiative and the corresponding lead agency.

Kimberley Response Initiative	Lead Agency
Kimberley On-Country Residential Youth Facilities (includes \$15m for the development of an on-Country residential facility for young people as an alternative to detention and \$500,000 to plan and develop other safe place proposals)	KDC
Target 120 Expansion	Communities
Kimberley Schools Project Extension	Education
Operation Regional Shield	WAPOL
Broome Night Patrol and Youth Service Expansion and Intensive Family Support (West Kimberley)	Communities
Kimberley Community Action Fund	KDC
Feasibility study WA College of Agriculture in Kimberley	Education
Further Aboriginal-led initiatives (targeted initiatives identified by ARGG and supported by KAYWSC)	DPC

In response to your final question - which was around useful information for the Kimberley shires to know about juvenile justice issues - the KJJS and the Kimberley Response are strongly linked to broader Government commitments, including the National Agreement on Closing the Gap (CtG) as part of a whole-of-government response to addressing juvenile crime in the region.

In addition, the Kimberley Aboriginal Youth Wellbeing Steering Committee (KAYWSC) was formed to ensure a partnership approach with the Kimberley Aboriginal community to progress implementation of actions related to the WA Governments' *Commitment to Aboriginal Youth Wellbeing* report ('the Commitment') and the 86 recommendations identified in the State Coroner's 2019 *Inquest into the deaths of thirteen children and young persons in the Kimberley Region, Western Australia*, and the 2016 Parliamentary Inquiry, *Learnings from the Message Stick: the report of the Inquiry into Aboriginal youth suicide in remote areas*.

The purpose of the KAYWSC is to bring together all relevant State Government agencies, along with Kimberley Aboriginal community-controlled organisations (ACCOs) represented on the Kimberley Aboriginal Regional Governance Group (ARGG), to support and enable Aboriginal community-led place-based solutions to improve Aboriginal youth wellbeing outcomes. Other workstreams that may be

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considered by the KAYWSC include certain elements of the KJJS, in addition to initiatives linked to the Commitment such as the Kimberley Empowered Youth Network and the Kimberley Regional Aboriginal Suicide Prevention Plan.

Finally, we recognise the local knowledge and expertise that the KRG offer to the KJJS and would welcome the opportunity to work with you. As mentioned previously, may I suggest that Ms Hill attend one of your meetings to present to the KRG and answer any further questions you may have.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adam', followed by a horizontal line.

Dr Adam Tomison  
**DIRECTOR GENERAL**

14 FEBRUARY 2023

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023**Attachment 3 Correspondence In: Kimberley Aboriginal Youth Wellbeing Steering Committee****From Kimberley Aboriginal Youth Wellbeing Team 27/03/2023****Kimberley Aboriginal Youth Wellbeing Steering Committee**

External

Inbox

**MHC Kimberley Aboriginal Youth Wellbeing <kaywsc@mhc.wa.gov.au>**

to paul@naja.com.au, me, MHC

Morning Paul and Jane,

We have been advised that you are providing secretarial support to the KRG. Apologies we previously sent correspondence to [tlane@walga.asn.au](mailto:tlane@walga.asn.au). Please find the correspondence below and related attachments. Please do not hesitate to contact us via [kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au) if you have any questions.

Kind Regards,

**Kimberley Aboriginal Youth Wellbeing Team**

Mental Health Commission

**T:** (08) 6553 0600 | **E:** [kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au)**Sent:** Wednesday, 22 March 2023 7:32 AM**To:** [tlane@walga.asn.au](mailto:tlane@walga.asn.au)**Cc:** MHC Kimberley Aboriginal Youth Wellbeing <[kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au)>**Subject:** Kimberley Aboriginal Youth Wellbeing Steering Committee

Good Morning,

Following the Kimberley Aboriginal Youth Wellbeing Steering Committee (KAYWSC) meeting held on the 9 March an endorsed **KAYWSC – Communiqué** has been released (please see Communiqué attached) for distribution to the Kimberley Regional Group and Kimberley Zone.

Please note, the Communiqué will be published on the Mental Health Commission website, a link will be distributed once available. Please also find attached correspondence from the Kimberley Aboriginal Youth Wellbeing Steering Committee Co-Chairs inviting the Kimberley Regional Group to nominate the Chair or Deputy Chair of the Kimberley Regional Group to attend the KAYWSC as an observer. The next KAYWSC meeting will be held via MS teams in May 2023. To ensure the meeting invitation and meeting papers are sent to the delegate it would be greatly appreciated if you could confirm the name and contact details of the delegate.

If you have any queries, please contact [kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au)

Kind Regards,

**Kimberley Aboriginal Youth Wellbeing Team** Mental Health Commission**T:** (08) 6553 0600 | **E:** [kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au)



Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023**COMMUNIQUE: Meeting of the Kimberley Aboriginal Youth Wellbeing Steering Committee (KAYWSC)**

9 March 2023

**COMMUNIQUE – ‘Relationships before transactions’ – Establishing a partnership is about confirming our commitment to an ongoing relationship for common purpose.**

The Kimberley Aboriginal Youth Wellbeing Steering Committee (KAYWSC) met in Broome on 9 March 2023. The meeting was opened with a Welcome to Country and smoking ceremony from Maree Edgar at the Mangrove Hotel.

The meeting was facilitated by Jonathan Ford and Caris Collard from Yonga Solutions and supported by the KAYWSC Co-Chairs Lindsay Hale and Desmond Hill.

The purpose of the KAYWSC is to bring State Government agencies together with the Kimberley Aboriginal Regional Governance Group (ARGG), to support and enable Aboriginal-led solutions to improve Aboriginal youth wellbeing.

The Parties are committed to working in partnership to progress implementation of actions related to the State Government's Commitment to Aboriginal Youth Wellbeing (2020) and the 86 recommendations arising from the 2016 Parliamentary Inquiry, Learnings from the Message Stick: The report of the Inquiry into Aboriginal youth suicide in remote areas and the 2019 WA State Coroner's Inquest into the deaths of 13 children and young persons in the Kimberley.

To ensure the success of this partnership Jonathan highlighted, 'the importance of the establishment of strong, trustworthy and honest, open and transparent relationships before we can collectively move towards the transactions', and the delivery of agreed KAYWSC priorities.

The key items discussed and considered by the Steering Committee included the following:

**Empowered Young Leaders (EYL)**

Tonii (Wajayi) Skeen shared the voices of EYL by presenting to the KAYWSC, EYL's priorities for 2023. Wajayi is the EYL Coordinator, West Kimberley (with West Kimberley Futures – Empowered Communities). EYL are the representative body for Aboriginal young people in the Kimberley region – they advocate for place-based representation and actively engage and partner with government agencies, corporate organisations and other stakeholders that are involved in decision-making and service delivery, enabling authentic co-design and collaboration.

Wajayi spoke of one of the key functions of EYL is to provide avenues for young people in the Kimberley to have a voice for issues that are important to them and that impact their lives. Wajayi spoke of how young people in the Kimberley report of 'forum trauma' whereby they feel they are one of the most heavily consulted populations in Australia and emphasised that it is critical that young people are guarded and protected throughout engagement with consultants and government agencies and departments; and that they are compensated for the services they provide.



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The KAYWSC was informed of how the EYL continues to connect young people with consultation opportunities, and that EYL establish clear boundaries for consulting parties to adhere to, to ensure safe and culturally appropriate engagements with young people.

KAYWSC members provided in principle support for the priorities of EYL in 2023; and agreed to continue to utilise EYL as a key governance group for Aboriginal youth leadership and decision making in the Kimberley. It was agreed that the KAYWSC secretariat facilitate a workshop with the EYL and State Government representatives to explore how this would apply at an agency level.

Members also supported the transition of EYL to become a separately incorporated body.

Members were encouraged to access the QR CODE below for more information on EYL.



#### Authorising Environment – resourcing and funding pathways

The Department of the Premier and Cabinet and Department of Finance provided a joint presentation on the State Government budgetary process and commissioning pathways. This aimed to provide clarity on what is required to request funding for new initiatives in the Kimberley that support and enable Aboriginal-led solutions to improve Aboriginal youth wellbeing.

#### Partnership Agreement

The ARGG tabled a draft Partnership Agreement and Implementation Plan at the Kimberley Aboriginal Youth Wellbeing Steering Committee (KAYWSC) on 28 October 2022. The Agreement included an Implementation Plan that reflects the ARGG's prioritisation of the 86 recommendations arising from the Coroner's Report, Message Stick Report, and the Kimberley Statement.

Prior to the KAYWSC meeting, WA Government provided consolidated feedback on the draft Partnership Agreement and Implementation Plan and as a result, the ARGG produced a revised version for in principle endorsement at the meeting.

There was a productive discussion regarding the Partnership Agreement and Implementation Plan, and further work will now occur to progress both.

#### Yiriman Project

Merle Carter, Women's Chair of KALACC and Damien Giles, Project Coordinator Kimberley Aboriginal Law and Cultural Centre provided a presentation and overview of the development of the Yiriman Justice Project. The presentation was well received and the Steering Committee contributed advice on how to progress the project further.

#### Next Meeting

The KAYWSC will meet again in May 2023, via MS Teams. A key focus of the meeting will be to finalise the Partnership Agreement and Implementation Plan.



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## MEMBERS ATTENDING

Name	Representing
Allan Adams	WA Police Force
Jim Bell	Department of Education (DoE)
Jodi Cant	Department of Finance
Merle Carter	Kimberley Aboriginal Law and Cultural Centre
Paula Chatfield	WA Country Health Service (WACHS)
Lanie Chopping	Department of Local Government, Sport and Cultural Industries (DLGSC)
Raymond Christophers	Kimberley Aboriginal Medical Services Ltd
Pepita Wilson	Kimberley Language Resource Centre
Tyronne Garstone	Kimberley Land Council
Damien Giles	Kimberley Aboriginal Law and Cultural Centre
Mala Haji-Ali	West Kimberley Futures - Empowered Communities
Lindsay Hale	Mental Health Commission (MHC)
Christy Hawker	Binarni-binyja yarrawoo Aboriginal Corporation (East Kimberley Empowered Communities)
Desmond Hill	Binarni-binyja yarrawoo Aboriginal Corporation (East Kimberley Empowered Communities)
Gina Hill	Department of Justice (DoJ)
Fiona Hunt	Department of the Premier and Cabinet (DPC)
Jacqueline McGowan-Jones	Commission for Children and Young People (CCYP)
Vicki O'Donnell	Kimberley Aboriginal Medical Services Ltd
Lawrence Panaia	WA Police Force
Mike Rowe	Department of Communities
Tonii Skeen	Empowered Young Leaders

## FURTHER INFORMATION

KAYWSC Secretariat: [kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au)

ARGG Secretariat: [kimberleyargg@kamsc.org.au](mailto:kimberleyargg@kamsc.org.au)

Artist acknowledgement:  
 Danica Manado is an Aboriginal Artist and Graphic Designer from Broome with cultural ties and connections to Yawuru, Djigun, Nimanbur and Bard groups of the Kimberley. The artwork represents the connection liyan has between yourself, your relationships, culture, country and purpose or interest whilst the colours chosen represents the many Kimberley landscapes.

3

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## Kimberley Aboriginal Youth Wellbeing Steering Committee

### TERMS OF REFERENCE

28 October 2022

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Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## 1. Background

The *Commitment to Aboriginal Youth Wellbeing* (the Commitment) was released in March 2020. The Commitment outlines how the Government proposes to work towards reducing the rate of suicide and enhancing the wellbeing of young Aboriginal people. The Commitment is the Government's response to the State Coroner's 2019 Inquest into the deaths of thirteen children and young persons in the Kimberley Region, Western Australia, and the 2016 Parliamentary Inquiry, *Learnings from the Message Stick: the report of the Inquiry into Aboriginal youth suicide in remote areas*. The reports made a combined 86 recommendations that highlight the need for the WA Government to work with Aboriginal people and ensure they are empowered to formulate the policies and services that affect their own communities.

There have been many reports into Aboriginal youth suicide in Western Australia over past decades, carrying many of the same messages and recommendations as the Coroner's Inquest and Message Stick reports. While Governments considered these reports when they were released, implementation of their recommendations was often limited, ad hoc, not resourced or did not address the issue holistically. The Government acknowledges that it must do better in responding to these reports and being accountable to the Aboriginal communities and families that continue to be impacted by suicide.

In March 2021, the Commitment was transitioned from the Department of the Premier and Cabinet to the Mental Health Commission (MHC) which now leads the coordination and progression of the State Government's response. The MHC recognises the importance of working with Aboriginal people as outlined in the National Agreement on Closing the Gap and the Aboriginal Empowerment Strategy and identified the need to engage with Kimberley Aboriginal people to deliver an appropriate response that is place-based, community-led and supports the development of genuine partnerships between the State Government, Aboriginal Community Controlled Organisations (ACCOs) and Aboriginal communities.

A Strengthening Partnerships Workshop was held in Broome in April 2021 and the MHC has committed to work in partnership with Kimberley ACCOs to prioritise and develop place-based, community-led action that works toward the 12 Commitments. The workshop was attended by State Government senior executives and senior representatives from Kimberley ACCOs.

The aim of the workshop was to initiate discussions between State Government and Kimberley ACCOs on how to strengthen partnerships and identify new ways of working between the State Government, ACCOs and Aboriginal communities. The proposed new ways of working challenges Government to do business in a truly new way. One that acknowledges that Aboriginal people are the experts and need to be heard and listened to as equal partners when decisions are made that affect Aboriginal people and lead the co-creations of solutions.

Following the workshop, further collaboration has occurred between the State Government Departments and the Kimberley ACCOs to formalise the partnership and to define processes and commitments. An agreed definition of partnership, co-design and shared decision making will be established which will then lead to the prioritisation of the implementation of the 86 recommendations and the 12 Commitments, including the five priorities outlined by the Call to Action letter sent to Government in May 2020 from the Kimberley ACCOs.

Kimberley Aboriginal leaders have agreed to establish the Aboriginal Regional Governance Group (ARGG) to provide unified Aboriginal leadership and to partner with the WA Government in relation to Aboriginal youth wellbeing. The ARGG will function on an interim basis until a Kimberley Aboriginal Regional Body is established. Once established, it is envisaged that that structure will replace the ARGG; however, this will be a decision for the Regional Body.





## Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

### 2. Purpose of the Kimberley Aboriginal Youth Wellbeing Steering Committee

The purpose of the Kimberley Aboriginal Youth Wellbeing Steering Committee (KAYWSC) is to bring together all relevant State Government agencies, together with Kimberley ACCOs represented on the Kimberley Aboriginal Regional Governance Group (ARGG) to support and enable Aboriginal community-led solutions to improve Aboriginal youth wellbeing outcomes. In particular, the State Government is committed to working in partnership with the Kimberley Aboriginal community to progress implementation of actions related to the WA Governments' *Commitment to Aboriginal Youth Wellbeing* report and the 86 recommendations identified in the State Coroner's 2019 *Inquest into the deaths of thirteen children and young persons in the Kimberley Region, Western Australia*, and the 2016 Parliamentary Inquiry, *Learnings from the Message Stick: the report of the Inquiry into Aboriginal youth suicide in remote areas*.

Other initiatives that will be considered in this partnership include the Kimberley Juvenile Justice Strategy, Kimberley Empowered Youth Network and the Kimberley Regional Aboriginal Suicide Prevention Plan.

### 3. Approach and Principles

The KAYWSC will not be considered a formal partnership under Closing the Gap. However, the partnership will utilise the strong partnership elements as described in Closing the Gap. The strong partnership elements describe the following:

- The partnership includes Aboriginal representatives who are appointed by Aboriginal people in a transparent way, with the voices of Aboriginal parties holding as much weight as the Government's.
- The partnership includes State Government representatives from Tier 1 and Tier 2 delegation and have negotiating and decision-making authority.
- The partnership is underpinned by a formal agreement which defines the parties, their roles and objectives as well as what is in scope of shared decision-making.
- Decision-making is by consensus and in a transparent way where all parties have enough information to understand the implications of the decision.
- The voices of a wide variety of groups should be heard, including women, young people, elders and people with a disability.
- Funding for relevant programs and services align with jointly agreed community priorities.

The partnership will also build on the four priority reform areas identified in Closing the Gap:

1. Formal partnerships and shared decision making.
2. Building the community-controlled sector.
3. Transforming government organisations.
4. Shared access to data and information at a regional level.

### 4. Initial Deliverables:

- Develop a co-design framework to support the development and implementation of the priorities outlined in this document.
- Design and implementation of an appropriate partnership model including the development of a Partnership Agreement.
- Progress the immediate actions identified by the Kimberley Stakeholder call for action letter dated 18 May 2020.
- Consider, prioritise and agree on the actions and investment for the 86 recommendations, noting Government retain responsibility for funding decisions.
- Partnering in response to other initiatives including the Kimberley Juvenile Justice Strategy, Kimberley Empowered Young Leaders and the Kimberley Regional Aboriginal Suicide Prevention Plan.

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- Develop and implement a community engagement plan on the partnership and shared decision-making agreement.
- Contribute to the WA Government Annual Progress report on the Commitment to Aboriginal Youth Wellbeing.
- Create an implementation plan with identified timeframes, roles and responsibilities to implement the Partnership Agreement.

## 5. Membership

The KAYWSC will consist of Director Generals or proxy (Tier 2) from State Government Agencies and representatives from the Kimberley ACCOs.

Proposed membership of the KAYWSC is outlined below:

State Government	Kimberley Stakeholders
Mental Health Commission (MHC) Position Title: Commissioner	Kimberley Aboriginal Medical Services Ltd (KAMS) Position Titles: <ul style="list-style-type: none"> <li>• Chair</li> <li>• Chief Executive Officer</li> <li>• Chief Operating Officer</li> </ul>
Department of Premier and Cabinet (DPC) Position Title: Deputy Director General	Kimberley Land Council (KLC) Position Titles: <ul style="list-style-type: none"> <li>• Chair</li> <li>• Chief Executive Officer</li> </ul>
WA Police (WAPOL) Position Title: Assistant Commissioner	Kimberley Aboriginal Law and Cultural Centre (KALACC) Position Titles: <ul style="list-style-type: none"> <li>• Chair</li> <li>• Coordinator</li> </ul>
Department of Justice (DoJ) Position Title: Director General	Kimberley Language Resource Centre (KLRC) Position Titles: <ul style="list-style-type: none"> <li>• Chair</li> <li>• Manager</li> </ul>
Department of Education (DoE) Position Title: Director General	West Kimberley Futures – Empowered Communities (WKF-EC) Position Titles: <ul style="list-style-type: none"> <li>• Chief Strategy Officer</li> <li>• Chief Implementation Officer</li> </ul>
Department of Communities (DoC) Position Title: Director General	Empowered Young Leaders representatives Position Titles: <ul style="list-style-type: none"> <li>• Chair</li> <li>• Coordinator/Lead</li> </ul>
Department of Local Government, Sport and Cultural Industries (DLGSC) Position Title: Director General	Binari-binyja yarrawoo Aboriginal Corporation (BBY) – East Kimberley Empowered Communities Position Titles: <ul style="list-style-type: none"> <li>• Chair</li> <li>• Chief Executive Officer</li> </ul>
Department of Primary Industries and Regional Development (DPIRD) Position Title: Director General	<b>Independent</b> Commissioner for Young People and Children Position Title: Commissioner
WA Country Health Service (WACHS) Position Title: Executive Director	
Department of Health (DoH) Position Title: Director General	

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Department of Treasury (DoT) Position Title: Under Treasurer	
Department of Finance Position Title: Director General	

## 6. Proxies

Members may nominate a proxy to attend the meetings on their behalf by advising the Co-Chairs through the Secretariat. State Government proxy representatives must be Tier 1 or Tier 2. Proxies will have the same responsibilities as members.

## 7. Observers

Standard Observers who can attend each meeting include:

- Minute taker
- KAYWSC secretariat staff
- ARGG secretariat staff

Approved Observers that will be invited to each Steering Committee is a representative from the following:

- National Indigenous Australians Agency
- Kimberley Regional Zone of Local Governments

The Co-Chairs may agree to invite or accept any other individual or organisational representative to participate in the meeting (or some parts of a meeting) as an observer as required. Members may request to invite observers, through the Secretariat prior to the meeting. It will be at the discretion of the Co-Chairs if the observer is to be provided with meeting papers.

All other observers are to be approved by the Co-Chairs prior to attendance.

## 8. Governance Structure

The KAYWSC is the main body established to drive the development and implementation of the partnership.

State Government members will report to the Human Services Director General Group.

The Aboriginal Regional Governance Group (ARGG) will provide unified Aboriginal leadership for this work.

The KAYWSC may establish Project Implementation Working Groups at its own discretion. These will consist of Government and ARGG representatives at officer level, may be time limited or ongoing, and will report to the KAYWSC.

The KAYWSC will be advised by the Empowered Young Leaders in regard to Empowered Young Leaders involvement and participation in working groups.

## 9. Confidentiality

The information provided to the KAYWSC is considered confidential. Members are not to communicate, or on-forward material received without pre-approval by the Chair/s.

When meetings are conducted via video-conference the meetings will be recorded and will only be used to write minutes, and to be provided to members who were not able to attend the meeting.



Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023**10. Chairperson**

The KAYWSC will be co-chaired by representatives from WA Government and representatives elected by the ARGG.

The Co-Chairs are responsible for overseeing and monitoring the work of the group, and for facilitating appropriate communication between ARGG and WA Government and reporting through respective accountability structures.

**11. Minutes/Action register**

Minutes with an Actions Register will be recorded and distributed promptly to each member of the KAYWSC.

An approved communique will be developed following each meeting summarising the key outcomes of the meeting that can be used if the ARGG and State Government wish to provide updates on the work of the KAYWSC to stakeholders.

**12. Executive support**

The MHC will manage the executive support responsibilities to the KAYWSC and will be responsible for providing timely and effective secretariat support including:

- acting as a focal point for information and advice on meeting processes; and
- coordinating and disseminating meeting agendas and supporting papers.

**13. Quorum**

The quorum of the KAYWSC shall be 50% plus one with a minimum of half of the representatives in attendance representing the ARGG, and half representing the WA Government. Where there is an unequal number of representatives, excess representatives will abstain from voting.

**14. Meetings**

The KAYWSC will meet quarterly via video-conference and at a minimum meet twice a year in-person in the Kimberley.

**15. Conflict of Interest**

If a conflict of interest is thought to exist, members are required to declare this interest prior to discussion/involvement. The KAYWSC shall determine whether such a conflict of interest exists.

If a conflict of interest is found to exist, the affected member shall withdraw from the meeting until the issue is resolved by the KAYWSC.

**16. Review**

The Terms of Reference once agreed will be reviewed every 12 months or sooner if required. The review will be undertaken with the KAYWSC members, and outcomes agreed to by KAYWSC members.

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Government of Western Australia  
Mental Health Commission

*We're working for  
Western Australia.*

Our ref : MHC23/12032  
Enquiries : Kelly Kennington  
Phone : (08) 6553 0576

Cr David Menzel  
Chair  
Kimberley Regional Group and Kimberley Zone  
C/O Tim Lane  
Secretariat

Email: [tlane@waiga.asn.au](mailto:tlane@waiga.asn.au)

Dear Cr Menzel,

**KIMBERLEY ABORIGINAL YOUTH WELLBEING STEERING COMMITTEE**

We thank you kindly for the nomination of Peter McCumstie as delegate of the Kimberley Regional Zone of Local Governments to attend the Kimberley Aboriginal Youth Wellbeing Steering Committee (Steering Committee) as an observer.

Since our last correspondence, representatives from the Aboriginal Regional Governance Group (ARGG) have met with Hon Amber-Jade Sanderson MLA, Minister for Mental Health and Hon Dr Tony Buti MLA, Minister for Aboriginal Affairs to express their concerns regarding progress on the Commitment to Aboriginal Youth Wellbeing and the current structure of the Steering Committee.

Through the discussions, several actions have been progressed to improve the operation of the KAYWSC, including following through on a commitment from Ministers Sanderson and Buti that State Government representation on the Steering Group is consistent and at Tier 1 or 2 delegation. To align to this, we are asking that observers representing external agencies hold a similar delegated authority and therefore request that your nominated representative is either the Chair or Deputy Chair of the Kimberley Regional Group. A copy of the endorsed Terms of Reference are attached (see **Attachment**).

The next Steering Committee meeting is scheduled in Broome for 9 March 2023, 9am - 1pm. To ensure the meeting papers are sent to the nominated delegate it would be appreciated if you could please confirm the name and contact details of the delegate directly to the project team via email to [kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au).

Should you have any questions about this request, please contact the Project team by email on the above-mentioned email address.

We look forward to working closely with the nominee/s to progress this important work.

Yours sincerely

Jenny Bedford  
Co-Chair  
Kimberley Aboriginal Youth Wellbeing Steering Committee  
February 2023

Levels 1 and 2 Workzone, 1 Nash Street, Perth, Western Australia 6000  
Letters GPO Box X2299, Perth Business Centre, Western Australia 6847  
Telephone (08) 6553 0600 Facsimile (08) 6553 0400



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- 2 -

A handwritten signature in blue ink, appearing to read 'D Hill'.

Desmond Hill  
Co-Chair  
Kimberley Aboriginal Youth Wellbeing Steering Committee  
February 2023

A handwritten signature in black ink, appearing to read 'L Hale'.

Lindsay Hale  
Co-Chair  
Kimberley Aboriginal Youth Wellbeing Steering Committee  
February 2023

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023**Attachment 4 Correspondence In: DLGCI response to KRG WADI support letter****From Jennifer McGrath, Deputy Director General 27/01/2023****Department of  
Local Government, Sport  
and Cultural Industries**

Our ref: M23000980  
Enquiries: Kim Lazenby  
Phone: 9492 9917  
Email: Kim.Lazenby@dlgsc.wa.gov.au

Ms Michelle Mackenzie  
Kimberley Regional Group  
[michelle@mira-consulting.com.au](mailto:michelle@mira-consulting.com.au)

Dear Ms Mackenzie

**KIMBERLEY REGIONAL GROUP - SUPPORT FOR THE WA DEVELOPMENT INDEX (WADI)**

Thank you for your correspondence dated 4 January 2023 to Hon John Carey MLA, Minister for Local Government, regarding the WA Development Index. The Minister has requested that I respond to you on his behalf.

The Department of Local Government, Sport and Cultural Industries (DLGSC) recognises the value in ensuring that there are ways to measure short, medium and long-term development outcomes. In December 2020, at the request of the former Minister for Local Government, Hon David Templeman MLA, DLGSC engaged Ernst and Young (EY) to prepare a business case for the development of a Western Australian Development Index (WADI), with assistance from the Australian National Development Index (ANDI) represented by Director, Professor Fiona Stanley AC, and Mr Mike ~~Salvaris~~.

Since this initial work, Local Government Act reform has been a primary focus for DLGSC. On 23 February 2023, the Local Government Amendment Bill 2023 (the Bill) was introduced into Parliament. The Bill introduces principles for the functions of local government including 'to promote the economic, social and environmental sustainability of the district' and 'to consider potential long-term consequences and impacts on future generations'. These principles will guide the scope and service delivery focus of local governments.

Depending on the preferences of local communities and other stakeholders, it might be possible for the WADI to provide useful approaches and information to demonstrate economic, social and environmental sustainability of regions, as well as possible long-term impacts. With this in mind, DLGSC is continuing to receive information and updates from stakeholders regarding the development of a WADI.

Yours sincerely

Jennifer McGrath  
Deputy Director General  
27 March 2023

246 Vincent Street, Leederville WA 6007  
Telephone: (08) 9492 9800  
Gordon Stephenson House, 140 William Street Perth WA 6000  
PO Box 8349 Perth Business Centre WA 6849  
Tel: (08) 8552 7300  
Email: [info@dlgsc.wa.gov.au](mailto:info@dlgsc.wa.gov.au)

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## Attachment 5 Correspondence In: Online Composite Engineering

Dear, Paul Rosair  
WALGA, Kimberly Country Zone

I would like to take this opportunity to introduce our NEW product release here in Australia and New Zealand,

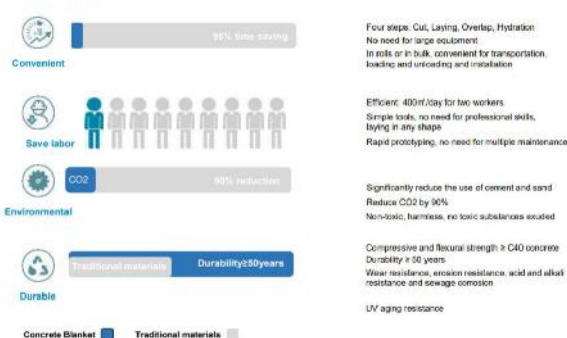
The Cementcrete Composite Blanket is a Concrete infused composite blanket that can be laid to fit almost any shape and location, then simply hydrate to harden, for a semi-permanent structure. It is really that simple Cut, Laying, Overlap, and Hydration. No need for large equipment. That it!!

The Cementcrete Composite Blanket comes in 2-meter-wide x 45-meter-long rolls in 6mm and 10mm thick, and 1.2-meter-wide x 20-meter-long rolls for the 15mm thick. The Cementcrete Blanket is perfect for the control of any soil erosion caused by water or wind, control of weeds and vegetation, and is even fire and chemical resistant! Has multiple usages across Water Conservation, Roads, Rail, Agriculture, Electricity Utilities, Mine sites, Bunts, Dams and Drains and so much more.

The use of our CEMENTCRETE COMPOSITE BLANKET, with an 90% reduction in CO2 , can reduce labour cost by up to 95%, Efficiency with up to 400SQM laydown a day, for two workers, is durable for up to 50 years, can be laid under water, and hydrated with any water supply, is Non-toxic, Harmless with no toxic content used in the manufacturing process. Is ASTM D8058, D8329, D6768, D4885, CTC & SGS TESTED

Please contact me directly via my mobile 0497 952 194, or via the contacts page at our web site [onlinecompositeengineering.com.au](https://onlinecompositeengineering.com.au) if you would like to find out more, or would like to know how this new CEMENTCRETE COMPOSITE BLANKET can work for you?

## Comparison



Kind regards



Allan Kingston  
Business Development  
Manager  
AUSTRALIA-NEW  
ZEALAND

email: [allan.kingston@oncoeng.com.au](mailto:allan.kingston@oncoeng.com.au)  
Web: <https://onlinecompositeengineering.com.au>  
36 Cocos Drive  
Bibra Lake WA 6163

MOB 0497 752 194

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023**Attachment 6 Correspondence Out: Kimberley Aboriginal Youth Wellbeing Steering Committee****From KRG Chair, Cr David Menzel 28/03/2023**

Kimberley Aboriginal Youth Wellbeing Team  
Mental Health Commission

Via Email – [kaywsc@mhc.wa.gov.au](mailto:kaywsc@mhc.wa.gov.au)

28/03/2023

Dear KAYWSC Co-Chairs and team,

Thank you very much for your correspondence received 27/03/2023 with information regarding the KAYWSC meeting. I also acknowledge the letter regarding the stipulation that representation as observers on the Steering Committee be from either the Chair or the Deputy Chair of the Kimberley Regional Group (KRG).

When the KRG originally proposed Cr Peter McCumstie it was done so with a great deal of consideration. Cr McCumstie, Deputy President Shire of Derby West Kimberley, was chosen as the most appropriate councillor to attend due to his extensive experience in Aboriginal youth wellbeing. Aside from being a councillor for over 20 years, including 10 years as Shire President, he has had many roles including CEO of the Dambimangari Board.

The KRG respectfully request that this nomination be accepted, as unfortunately I, and Deputy Chair are currently unavailable due to demanding workloads, heightened as a consequence of the recent floods.

Please advise of your decision and advise accordingly to [David.menzel@swek.wa.gov.au](mailto:David.menzel@swek.wa.gov.au) (and please cc our Executive Officer, Paul Rosair [Paul@naja.com.au](mailto:Paul@naja.com.au) and the Executive Administrator [Jane@reditresearch.com.au](mailto:Jane@reditresearch.com.au))

Yours sincerely

A handwritten signature in black ink, appearing to read "David Menzel".

Cr David Menzel  
Chair  
Kimberley Regional Group

Kimberley Regional Group and Kimberley Zone  
459 Albany Hwy Victoria Park | 0419 930 467 | [info@naja.com.au](mailto:info@naja.com.au)

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## 6. Financial Report

### Item for Decision

**Submitted by: Vernon Lawrence, KRG Secretariat and Felicity Heading**

**Attachment 7: Kimberley Regional Group Interim Financial Report to 28 February 2023**

### Purpose

To update the KRG members on the financial position of the Group.

### Summary

This report presents the Kimberley Regional Group Interim Financial Activity Statement for the period ended 28 February 2023. The report recommends that the Kimberley Regional Group (KRG) receives the Financial Activity Statement.

### Details

#### Background

##### *Previous Considerations*

Nil for the current financial year.

The last budget adopted by the KRG was for the 2021/22 financial year. Due to a change in Consultant to the KRG and the change of the Secretariat from the Shire of Broome to the Shire of Wyndham East Kimberley an annual budget was not adopted prior to the start of the current financial year. The budget for the current year is the subject of a report to this meeting. The Annual Budget presented for the 2022/23 financial year is a balanced budget.

The Shire of Wyndham East Kimberley took over the secretariat effectively from 1 July 2022. At this date the Shire became responsible for the operating expenses of the KRG. The funds of the KRG were transferred to the Shire of Wyndham East Kimberley after the financial audit was complete.

#### Comment

The Financial Activity Statement presents a current surplus position of \$228,072 and this is before invoices for the 2022/23 have been issued.

Executive and Administrative consultancy invoices have been received to January 2023 and indicate that services will be delivered within budget at year end. Invoices for the current years contribution from the member Shires will be sent out after the approval of the Annual Budget. Reimbursements for expenditures incurred will also be sent out to the individual Shires after the approval of the Annual Budget.



Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023**Consultation**

Nil.

**Statutory Environment**

**Local Government Act 1995**

**Financial Implications**

As at the 30 June 2022 the Kimberley Regional Group cash balance carried forward to the new financial year was \$289,435.

The Kimberley Regional Group budget was put forward to this meeting as a balanced budget with the opening cash balance of \$298,435. As no invoicing for contributions has been done and no reimbursements have been refunded the year-to-date actual budget deficit is \$70,363. The total Kimberley Regional Group cash balance at 28 February 2023 is \$228,072.

**Strategic Implications**

**Governance Goal – A collaborative group demonstrating strong regional governance:**

- Effective governance protocols and systems for business efficiency and improved services through collaboration. Secure funding for regional initiatives.

**Voting Requirements**

Absolute Majority

Resolution/s		Action(s) / Budget Implications	
<b><i>That the Kimberley Regional Group notes the Interim Financial Report to 28 February 2023, the \$70,363 year to date budget deficit, and the overall \$228,072 surplus position</i></b>		Nil	
Moved:	SDWK	Responsible:	
Seconded:	SHC	Due date:	
Carried: 4 / 0			

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023
**Attachment 7 Kimberley Regional Group Interim Financial Report to 28 February 2023**

Kimberley Regional Group - Interim Financial Statement for the period ending 28 February 2023	Annual Budget	Budget Year to Date	Actual Year to Date
<b>Expenditure</b>			
Kimberley Regional Group - Zone & RCG Meeting Expenses - Op Exp	12,000	8,000	1,636
Kimberley Regional Group - Annual Financial Audit - Op Exp	5,000	3,333	5,000
Kimberley Regional Group - IT Support - Op Exp	1,500	1,000	-
Kimberley Regional Group - Sundry Expenses - Op Exp	1,000	667	-
Kimberley Regional Group - Website upgrade	4,000	2,667	-
Kimberley Regional Group - Executive Consultancy	116,200	77,467	61,106
Kimberley Regional Group - Executive Consultancy - reimbursable costs	6,000	4,000	-
Kimberley Regional Group - North West Defence Alliance	40,000	26,667	2,622
	<u>185,700</u>	<u>123,800</u>	<u>70,363</u>
<b>Income</b>			
Kimberley Regional Group - Reimbursement Zone & RCG Meetings Expenses - Op Inc	- 3,000	- 2,000	
Kimberley Regional Group - Members Contribution Secretariat Costs - Op Inc	- 180,000	- 120,000	
Kimberley Regional Group - Interest on Reserve - Op Inc	- 2,700	- 1,800	
	<u>- 185,700</u>	<u>- 123,800</u>	<u>-</u>
<b>Net Operating Result</b>	<u>-</u>	<u>-</u>	<u>70,363</u>
<b>Opening Cash Balance</b>	<u>298,435</u>	<u>298,435</u>	<u>298,435</u>
<b>Closing Cash Balance</b>	<u>298,435</u>	<u>298,435</u>	<u>228,072</u>

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## 7. Adoption of KRG Annual Budget 2022/23

### Item for Decision

Submitted by: Vernon Lawrence, KRG Secretariat and Felicity Heading

Attachment 8: Kimberley Regional Group Annual Budget 2022/23

### Summary

This report presents the proposed 2022/23 Kimberley Zone of WALGA and Kimberley Regional Group Annual Budget for approval.

### Background

#### *Previous Considerations*

At the 21 June 2022 KRG meeting the following motion was passed.

#### **KIMBERLEY REGIONAL GROUP REPORT RECOMMENDATION**

**Minute No. KRG/0622/007**

**Moved: Cr David Menzel**

**Seconded: Cr Chris Mitchell**

**That the Kimberley Regional Group:**

- 1. Approves the deferment of the 2022/23 Kimberley Regional Group Annual Budget due to the imminent appointment of a new consultant.**
- 2. Notes the budget will be circulated out of session for approval.**

**CARRIED**

The Secretariat has belatedly prepared a Draft Kimberley Regional Group (KRG) 2022/23 Annual Budget which outlines proposed income and expenditure and indicates a balanced budget for the year ending June 30, 2023.

In considering the Draft KRG 2022/23 Annual Budget members should note the estimated budgeted \$289,435 overall surplus from the 2022/23 financial year. It is for members consideration to allocate the surplus funds to projects and / or reduce the required member contribution in 2023/24.

### Comment

The Draft 2022/23 Annual Budget (Attachment 8) has been developed with regard to historical expenditure while also considering changes in KRG priorities, service delivery methods and increases in local government CPI.

The budget takes into account the appointment of a new consultant, NAJA, that will undertake the administrative functions of the Kimberley Regional Group and the Zone. The contract has been awarded for two years and the costs for the 2022/23 are estimated to be \$116,147 excluding GST annually. As NAJA commenced part way through the financial year the full amount has been budgeted for as well as reimbursable expenses as ATEA Consulting continued to provide services into the new financial year for which they have been reimbursed.



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Meeting expenses and corresponding income have been estimated to be in line with previous years adjusted for CPI where appropriate. These costs include the hire of meeting space where necessary, catering and other incidental costs. A separate line item has been included for the Canberra Delegation trips.

A review of the priorities of the KRG was performed and most items are advocacy based and do not require funding beyond the resourcing of the Executive Officer position. Given the groups advocacy role no funding has been allocated to project delivery in the 2022/23 budget. This may change once the KRG has reviewed the past project initiatives and a budget adjustment can be made at the appropriate time.

A new item that has been included is a contribution to the North West Defence Alliance Incorporated (NDWA). This amount is \$40,000 and is substantially to fund the appointment of a consultant and fund the advocacy initiatives of the NDWA.

Operating expenditure for the 2022/23 Draft Annual Budget totals \$185,700. Member contributions have been set at to \$45,000 to cover operating costs, however members may consider further reducing this commitment given the expected \$298,435 end of year overall surplus for 2022/23.

### Consultation

Nil.

### Statutory Environment

**Local Government Act 1995**

### Financial Implications

The budget is the primary financial plan for the 2022/23 financial year. The intention is that the budget will be balanced such that all expenditures are matched by revenues. The budget is presented as a balanced budget. A WALGA preferred auditor will be engaged to prepare the independent Annual Audit for the Kimberley Zone Secretariat and Kimberley Regional Group for the year ending 30 June 2023.

### Strategic Implications

**Governance Goal – A collaborative group demonstrating strong regional governance:**

- Effective governance protocols and systems for business efficiency and improved services through collaboration
- Secure funding for regional initiatives
- Recognition of Kimberley Local Government issues and opportunities
- Alignment and integration of regional and local priorities for member Councils

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## Voting Requirements

Absolute Majority

Resolution/s		Action(s) / Budget Implications	
<b><i>That the Kimberley Regional Group endorse the 2022/23 Kimberley Regional Group Annual Budget as attached.</i></b>		Nil	
<b>Moved:</b>	SDWK	<b>Responsible:</b>	
<b>Seconded:</b>	SoB	<b>Due date:</b>	
<b>Carried: 4 / 0</b>			

### Attachment 8 Kimberley Regional Group Budget 2022/23

Kimberley Regional Group - Proposed Annual Budget 2022/23

2022/23

#### OPERATING EXPENDITURE

185,700

Kimberley Regional Group - Zone & RCG Meeting Expenses - Op Exp  
 Kimberley Regional Group - Annual Financial Audit - Op Exp  
 Kimberley Regional Group - IT Support - Op Exp  
 Kimberley Regional Group - Sundry Expenses - Op Exp  
 Kimberley Regional Group - Website upgrade  
 Kimberley Regional Group - Executive Consultancy  
 Kimberley Regional Group - Executive Consultancy - reimbursable costs  
 Kimberley Regional Group - North West Defence Alliance

12,000 Canberra \$6K; Face to Face \$6k  
 5,000 Estimate based on prior year data  
 1,500 Estimate based on prior year data  
 1,000 Nominal amount - printing etc  
 4,000 Estimated cost  
 116,200 864 hours @ \$134.43 per hour blended rate - based on full year  
 6,000 Estimated amount  
 40,000 Per minutes - "up to \$50,000"

#### OPERATING INCOME

(185,700)

Kimberley Regional Group - Reimbursement Zone & RCG Meetings Expenses - Op Inc  
 Kimberley Regional Group - Members Contribution Secretariat Costs - Op Inc  
 Kimberley Regional Group - Interest on Reserve - Op Inc.

(3,000)  
 (180,000) \$45,000 x 4 councils  
 (2,700)

#### Net Operating Result

0

#### Opening Cash Balance

298,435

#### Closing Cash Balance

298,435

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023



## 8. Formal Presentations

Submitted by: Executive Officer

### Purpose

To receive presentations from key stakeholders.

### Background:

In accordance with the priorities of the KRG, stakeholders have been secured to present and discuss relevant topics with the members.

### Details:

Time	Name	Position	Topics for discussion
TBA	Basil Zempilas	Lord Mayor, City of Perth	Lord Mayor's Disaster Relief Fund
2:45	Rob Cossart	State Recovery Coordinator	Recovery
3:15	Christine Comer	Assistant Director WA and SA. National Emergency Management Agency	Recovery
3.40	Stuart Cowie	Executive Director Emergency Relief and Support, Department of Communities	Recovery
	Glen Mace	Executive Director Service Delivery, Department of Communities	

Link to Key Pillar/s and Strategies:		Budget Implications
<b>People Place</b> Prosperity Performance	<b>Advocate Partner</b> Promote	<b>Facilitate Fund Monitor</b>
Resolution/s(s)		Action(s)
For information only		

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## 9. Around the Grounds

### Matter for Discussion – Outcome of the Canberra meetings

Submitted by: Secretariat

#### Purpose:

This session provides an opportunity for members to discuss the meetings held in Canberra and the next steps that they would like to pursue.

#### In Summary:

- KRG members and delegates attended a series of meetings over three days in Canberra with Federal politicians and senior bureaucrats. This included meetings with five Ministers and the leader of the Opposition.
- The Investment Prospectus and Policy Positions were tabled at the meetings and were well received.
- Alfred Nagaiya, the Senior Economic Development Officer at the Shire of Wyndham East Kimberley, was instrumental in working with the Executive Officer to develop the itinerary. Letters have been drafted thanking people for meeting with the KRG and reinforcing key advocacy points.
- Through discussions it came to our attention that funding for the Tanami Road has been deferred. A letter has been drafted from the KRG requesting that this funding is reinstated given the impact of the recent Kimberley floods on the road network and supply chain resilience.
- The following is a list of the meetings held and key issues raised;

Canberra Visit Meetings	
Meeting with	Issues discussed
Monday, 27 <sup>th</sup> March 2023	
NEMA – Coordinator-General; Deputy Coordinator-General; Assistant Coordinator-General	Disaster recovery funding: Issues with DRFAWA, particularly with timely disbursement of payments for work completed. Coordinator-General to discuss our concerns with DFES
Opposition members, including Peter Dutton	General discussion with experiences of Shires that have had the CDC abolished by the Albanese Government
Chief of Staff of Dr Anne Aly, Minister for Early Childhood Education	Discussed the dire need to address housing (particularly affordable housing) for childcare workers. SWEK provided a letter from their main childcare provider that outlined that the centre is likely to run out of funds within 4-6 months and will then shut down.

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Two Senior Advisors to the Prime Minister	Raised a number of issues across many portfolios including childcare, local government sustainability, Tanami Rd funding deferral.
<b>Tuesday, 28<sup>th</sup> March</b>	
<b>Meeting with</b>	<b>Issues discussed</b>
Senator Dean Smith	Many issues raised, including sustainability of local governments, disaster recovery, Tanami Rd funding deferral.
Kristy McBain, Minister for Regional Development, Local Government and the Territories	Discussions on local government sustainability, Tanami Rd funding deferral, DRFAWA payments issues, etc
Senator Bridget Mackenzie	Issues discussed included Tanami Rd funding deferral, CDC, regional infrastructure, disaster recovery.
Senator Linda Reynolds	General discussions on CDC, local government sustainability.
Amanda Rishworth, Minister for Social Services	CDC removal and issues being experienced (youth crime, anti-social behaviour, etc).
Julien Leesa, Shadow Minister Indigenous Affairs	Indigenous issues including CDC withdrawal impacts.
Nola Merino, Member for Forrest	General discussions on local government sustainability, CDC impacts.
Senator Matt O'Sullivan	General discussions on local government sustainability, CDC impacts, local government sustainability
<b>Wednesday, 29<sup>th</sup> March</b>	
Linda Burney, Minister for Indigenous Australians	Discussions on The Voice, issues after withdrawal of CDC
Madeleine King, Minister for Resources; Minister for Northern Australia	Disaster Recovery briefing, sustainability of local governments, issues with payments under DRFAWA, etc

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<p>Senator Murray Watt, Minister for Agriculture, Fisheries and Forestry; Minister for Emergency Management</p> <p>Brendan Moon, Coordinator-General, NEMA</p>	<p>Issues around payments under DRFAWA. Mr Moon advised he has discussed with DFES our concerns. Will be discussing further with DFES. Delegation briefed Minister on recovery efforts in the Kimberley.</p>
--	--

Link to Key Pillar/s and Strategies:		Budget Implications
<div> <b>People</b>  <b>Place</b>                      Prosperity                      Performance                 </div>	<div> <b>Advocate</b>                      Partner                      Promote                 </div> <div> <b>Facilitate</b>                      Fund                      Monitor                 </div>	Nil
Resolution/s(s)		Action(s)
For Information only		Nil

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## 10. KRG MOU and Governance Arrangements

### Item for Decision

Submitted by: KRG Executive Team

**Attachment 9: KRG Draft MOU**

**Attachment 10: KRG Governance Agreement (separately attached)**

**Attachment 11: KRG Governance Manual (separately attached)**

### Purpose

That the governance arrangements for the Kimberley Regional Group are clear and fit for purpose.

### In summary

The Kimberley Regional Group Governance Agreement was developed when the KRG was established. This forty-page document with five attachments was reviewed in 2021. It is the secretariat's understanding that the review recommendations have not been ratified. This Agreement is attached.

Complementing this Agreement is a Kimberley Regional Group Governance Manual. It is the secretariat's understanding that this governance manual has not been ratified and is a draft.

These documents outline important governance arrangements for the KRG such as the appointment of delegates, voting rights, meeting procedures and the role of the host shire.

- A review of these documents found that whilst acknowledging that the KRG is not a separate legal entity they are written as if the Kimberley Regional Group were a local government constituted under the Local Government Act.
- It is our understanding that these documents were developed when the KRG was looking at a project delivery type model where the KRG would drive key regional projects. The focus of the KRG has been more around collaboration, advocacy and engagement rather than project management.
- As an interim measure, it is recommended that the KRG sign a MOU that outlines the spirit of co-operation and collaboration on Kimberley wide issues, which references the Governance Agreement so that governance protocols are clear.
- Also, it is recommended that prior to creating a suite of new governance documents that the KRG discuss how it would like to be constituted, and task the secretariat to develop an options paper to look at the pros and cons of potential governance arrangements prior to investing time in updating or developing new governance documents.

### Background:

As above.



Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023**Details:**

A simple MOU has been prepared which outlines the vision, mission, objectives and shared values and principles of the Kimberley Regional Group and aims to capture the spirit of collaboration and co-operation between KRG members. This MOU references the current Governance Agreement which outlines important governance arrangements for the KRG such as the appointment of delegates, voting rights, meeting procedure and the role of the host shire.

Clear governance arrangements are critical to the successful operation of the KRG, and for members and key stakeholders to understand the KRG's purpose and function. Potential governance models for the KRG could include:

1. A voluntary regional organization of councils;
2. A regional local government constituted under the Local Government Act WA, with the roles, responsibilities and reporting requirements of a local government
3. An incorporated Association, with a constitution outlining the roles and functions of the KRG and reporting requirements.

The secretariat is seeking direction from the KRG on how it would like to be constituted prior to spending time on updating the current government agreement and governance manual.

To inform this discussion, the secretariat is seeking direction on whether an options paper to look at the pros and cons of potential governance arrangements would be useful to inform a decision by the KRG.

**Risk:**

Governance - without clear governance arrangements the functioning of the group has the potential to lack clarity and consistency.

Reputational – lack of clarity by members and stakeholders on the governance of the KRG.



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Link to Key Pillar/s and Strategies:		Budget Implications	
<div> <div>People</div> <div>Place</div> <div>Prosperity</div> <div>Performance</div> </div>	<div> <div>Advocate</div> <div>Partner</div> <div>Promote</div> </div> <div> <div>Facilitate</div> <div>Fund</div> <div>Monitor</div> </div>	Nil	
Resolution/s(s)		Action(s)	
<p><b>That the KRG</b></p> <ol style="list-style-type: none"> <li>1. Ratify the draft MOU and recommend this to member Councils for signing; and</li> <li>2. Task the secretariat to develop a simple options paper on potential governance arrangements for the KRG.</li> </ol>		MOU to be sent for signing.	
<b>Moved:</b>	SDWK	<b>Responsible:</b>	
<b>Seconded:</b>	SoB	<b>Due date:</b>	As required
<b>Carried:</b>	4/0		

Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023

## Attachment 9 KRG Draft MOU



## Kimberley Regional Group Memorandum of Understanding – Draft 1

### Background

In September 2010, the four Kimberley Shires, the Shire of Broome, Shire of Derby West Kimberley, Shire of Halls Creek and the Shire of Wyndham East Kimberley, came together as the Kimberley Regional Collaborative Group for the purpose of undertaking shared regional initiatives in the Kimberley region. Known today as the Kimberley Regional Group, the four Shires continue to show collective leadership and to work together to deliver positive outcomes and impact across the Kimberley region of WA.

### Purpose of this MOU

This MOU outlines the vision, mission, objectives and shared values and principles of the Kimberley Regional Group. This MOU is to be read in conjunction with the Kimberley Regional Group Governance Agreement which outlines the governance and operational arrangements for the functioning of the Kimberley Regional Group to deliver on its vision, mission and objectives.

### Our Vision

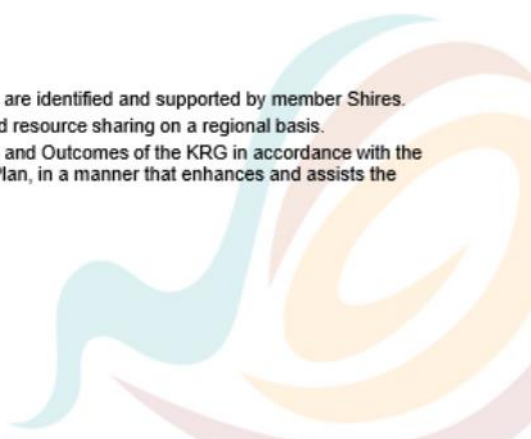
To maintain and enhance the rich diversity and liveability of the Kimberley Region for its people and the world.

### Our Mission

To work collaboratively for the benefit of the people and the land of the Kimberley Region.

### Our Objectives

- To provide regional leadership.
- To advocate on regional issues as they are identified and supported by member Shires.
- To encourage and foster cooperation and resource sharing on a regional basis.
- To strive to achieve the Strategic Goals and Outcomes of the KRG in accordance with the KRG's Regional Strategic Community Plan, in a manner that enhances and assists the advancement of the Kimberley Region



Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023



**Our Principles**

- Respecting the diversity of people, environment and culture
- Working proactively
- Communicating effectively
- Valuing success
- Fostering innovation
- Adaptability
- Working efficiently
- Outcome and impact focussed.
- Consideration of the interests of all Shires

**Our values**

- Collaboration
- Respect
- Integrity
- Openness
- Trust


**Term of the MOU**

The term of this MOU mirrors the term of the Kimberley Regional Group Governance Agreement which is four years from the date of the signing of the Agreement.



Kimberley Regional Group: Minutes 13<sup>th</sup> April 2023



	
Signature of Shire President	Signature of Shire President
Name of Shire President	Name of Shire President
Date	Date
	
Signature of Shire President	Signature of Shire President
Name of Shire President	Name of Shire President
Date	Date



## 11. Kimberley Regional Group Workshop Report and Action List

### Item for Noting

Submitted by: KRG Executive Team

**Attachment 12: Report from the KRG November Workshop (separately attached)**

**Attachment 13: Workshop Priority Action List (separately attached)**

### Purpose

To agree on the priority actions for the KRG over the next twelve months.

### In summary

- In November 2023 the Kimberley Regional Group held a workshop to discuss key priorities. The Workshop Report is presented to the KRG for noting.
- At the February 2023 meeting the KRG noted a draft action plan which was developed from the workshop.
- Over the last six months the executive team has focused on administrative and internal arrangements along with future planning.
- The executive team will use the action plan to guide its focus over the next 6 to 12 months, and with feedback from the KRG.
- Reviewing the action list, it would be useful for the KRG to discuss the actions they would like progressed over the next six months in the priority areas of housing; community safety and crime prevention; government services; juvenile justice; management of alcohol and other drugs; and prosperous diverse economy.
- It must be noted that the priority actions do not preclude other activities from occurring, in particular seizing opportunities as they arise.

### Background:

- As above

### Details:

- As above

### Risk:

- Operational - Without agreement on the priority work to be progressed by KRG members and the Executive Team opportunities may be missed.

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Link to Key Pillar/s and Strategies:		Budget Implications	
<div> <div>People</div> <div>Place</div> <div>Prosperity</div> <div>Performance</div> </div>	<div> <div>Advocate</div> <div>Partner</div> <div>Promote</div> </div> <div> <div>Facilitate</div> <div>Fund</div> <div>Monitor</div> </div>	Nil	
Resolution/s(s)		Action(s)	
<p><b>That the KRG;</b>  <b>Notes the Workshop Report November 2023 and the Priority Action List: and</b>  <b>Confirms the priority focus areas and key actions that are to be progressed by the KRG over the next six months.</b></p>		Executive team to circulate the draft actions	
<b>Moved:</b>	SWEK	<b>Responsible:</b>	Executive Team
<b>Seconded:</b>	SDWK	<b>Due date:</b>	As required
<b>Carried:</b>	4/0		

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## 12. Executive Officer Report

### Item for Noting

Submitted by: Executive Officer

Attachment 14: EO Report February, March 2023

### Purpose:

To update the KRG on the Executive Officer services provided for the period February 2023 – March 2023 inclusive.

### Background:

The attached report provides information about the services provided, activities undertaken and time allocation over the past two months.

### Details:

As in included attachment.

### Risk:

Nil

Link to Key Pillar/s and Strategies:			Budget Implications
People Place Prosperity Performanc	Advocate Partner Promote	Facilitate Fund Monitor	<p><b>As per 2022/23 approved KRG budget.</b>  Agreed additional budget items:  <b>Prospectus Development and DTP</b>  <b>Budget</b> \$6,600 (Incl GST)  <b>Actual</b> \$6,385.50 (Incl GST)  Plus, Printing \$1,038.40 (Incl GST)  <b>Position Papers Development and DTP</b>  <b>Budget</b> \$5,500 (Incl GST) and Incl Printing  <b>Actual</b> \$4,705.57 ((Incl GST)</p>
Resolution/s(s)			Action(s)
That the Executive Officers Report be received and endorsed			As per Outstanding Actions

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<b>Moved:</b>	SoB	<b>Responsible:</b>	Executive Officer
<b>Seconded:</b>	SDWK	<b>Due date:</b>	As required
<b>Carried:</b>	4/)		

## Attachment 14: EO Report – February to March 2023

## Project Work / Activity

Refer to business arising and KRG action lists for all activities the Executive is working on.

Project / Activity	Status	Item
Administrative Matters and Meetings	Continuing	-
Website	Contract issued and development commenced.	General Business
Investment Prospectus	Revised and added new projects to the Investment Prospectus and desktop published and printed copies for distribution to members and stakeholders.	12
Position Papers	Finalised and published	12
Canberra Visit	Travelled to Canberra with group members to attend advocacy meetings	9
KRG MOU and Governance	Developed draft MOU, awaiting instruction on governance document	10
Banned Drinkers Register	Now a watching brief.	-
Strategic Planning	Revised and completed workshop report.  5 Priority areas (plus Land Policy) were agreed. Executive is now seeking guidance and direction from group as to priority actions for the secretariat to focus its attention.	11



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## Stakeholder Engagement

Date	Stakeholders	Purpose
1/2/2023	Minister of Emergency Services Office	Spoke to office to organise meeting and presentation to Group.
3/2/2023	Phillip Cassell, CEO Shire of Halls Creek	General KRG discussions.
6/2/2023	Vernon Lawrence, KRG Secretary	General KRG matters
8/2/2023	Rob Cossart, State Emergency Services Coordinator.	Update of Fitzroy Flood response and invitation to meet with group
10/2/2023	Vernon Lawrence, KRG Secretary	General KRG matters
14/2/2023	Nick Kearns, KRG Deputy Secretary	KRG Secretariat Arrangements.
16/2/2023	Geoff Haerewa, KRG Deputy Chair	KRG Secretariat Arrangements.
17/2/2023	KRG Members	KRG and Kimberley Zone Zoom Meeting
18/2/2023	Alfred Nagaiya, Program Manager, SWEK	KRG Prospectus and Canberra Itinerary.
27/02/2023	Emma Newman, Mayor of City of Perth Chief of Staff	General Executive Officer intro, Lord Mayor Flood Response fund and potential COP venue for next meeting.
28/2/2023	Jessica Houston, Senior Policy Officer, Minister of Regional Development Office	General discussion regarding KRG and invitation for Minister to present to group.
9/3/2022	Residential Lands and Housing Delivery Ministerial Oversight Committee (RLHDMOC)	Attended on behalf of RCAWA but used the opportunity to update Ministers and DG's on Fitzroy Flood response and associated Land and Housing issues.
17/3/2023	Chris Mitchell and Sam Mastrolembro	Issues surrounding Auditor General Office
19/03/2023	Chair KRG	Informal catch up in Kununurra and update on KRG
10/2/2023	Vernon Lawrence, KRG Secretary	General KRG matters – April agenda setting

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Date	Stakeholders	Purpose
20/2/2023	Nick Kearns, KRG Deputy Secretary	KRG Secretariat Arrangements.
26/3/2023 – 30/3/2023	Federal Parliament KRG Visit	Accompanied members to Parliament House for advocacy meetings with Ministers, Politicians and Public Servants. See Around the grounds Agenda item for further details.
31/03/2023	Malcolm Edwards, and Jackie Parker SHC	Hosted Malcolm and Jackie at Perth office

## Time Allocation September 2022 – August 2023

Total Yearly Contract: 864 Hours: Monthly from 8<sup>th</sup> of the month to 7<sup>th</sup> of the next month

	Paul Rosair		Michelle Mackenzie		Jane Lewis		Joshua Turner	
	Contract	Actual	Contract	Actual	Contract	Actual	Contract	Actual
Sept 22	32	34	20	18	23	29	4	2
Oct 22	32	22	20	8	23	24	4	1
Nov 22	32	40	20	36	23	28	4	0
Dec 22	10	12.5	10	26.25	10	1.5	2	0
Jan 23	10	19	10	11	10	36	2	0
Feb 23	32	15.5	20	9	23	25.5	4	0
Mar 23	32	34	20	9.25	23	14.5	4	0
Apr 23	32		20		23		4	
May 23	32		20		23		4	
June 23	32		20		23		4	
July 23	32		20		23		4	
Aug 23	32		20		23		4	
<b>TOTALS</b>	<b>180/350</b>	<b>177/180</b>	<b>120/220</b>	<b>117.5/120</b>	<b>135/250</b>	<b>158.5/135</b>	<b>24/44</b>	<b>3/24</b>
<b>OVERALL CONTRACT: 459 / 864 ACTUALS: 456 / 459</b>								

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### 13. General Business

Item	Responsible	Actions Arising
Website	Executive Officer	Executive Team to send link for members to provide feedback
Auditor General Issues – KRG Position and recommended response.	Executive Officer	Executive Team to address with Secretariat and Shire of Broome
Meeting Dates –August clashes with Broome events	Executive Team	Executive Team to change August meeting and possibly venue
Tanami Road	Executive Team and Chair	Letter to be written to Minister regarding road funding commitment

Date	Time	KRG
15/6/2023	9-12 noon	KRG and Zone Meeting – <b>ZOOM</b>
16/8/2023 To be changed	1-5 pm then dinner	KRG and Zone Meeting – <b>Halls Creek</b>
To coincide with the WALGA AGM – 4/10/23?	TBD	KRG and Zone Meeting – <b>Metropolitan Venue TBD</b>
24/11/2023	9-12 noon	KRG and Zone Meeting – <b>Zoom</b>

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**13. Meeting Closure: 4.00pm**

**11.2 DERBY PORT MASTERPLAN - BUDGET CONSIDERATION****File Number:** 9010.20.1**Author:** Neil Hartley, Director - Strategic Business**Responsible Officer:** Amanda Dexter, Chief Executive Officer**Authority/Discretion:** Executive**SUMMARY**

The Derby Port Masterplan was endorsed by Council at its 27 April 2023 Meeting. The Masterplan concluded that Council should retaining the port, and offered up 53 recommendations to assist to facilitate that potential outcome.

This report provides an early indication of budget requirements for Council's consideration as part of its 2023/24 budget.

**DISCLOSURE OF ANY INTEREST**

Nil applicable by Author or Responsible Officer.

**BACKGROUND**

The Derby Port is managed by the Shire under a Head Lease. The Head lease has been in operation since 30 June 1998 and is due to conclude on 29 June 2040. The lessor has historically been the WA Department of Transport, but the responsibility for that oversight was passed on to the Kimberley Ports Authority on 1 July 2021. The development of a Masterplan for the Derby Port to compliment the new oversight arrangements was therefore timely, and will assist in guiding the port's strategic direction and operations, to 2040, and potentially beyond that time.

The Derby Port Masterplan concluded that Council should retaining the port, and offered up 53 recommendations to assist to facilitate that potential outcome, with an emphasis on the decision making process being based on a thorough understanding of the risks and benefits that are relevant at the time those decisions are made. It was endorsed by Council at its 27 April 2023 Meeting with the following recommendation included:

- 1. Requires that the Chief Executive Officer (CEO) prepare for Council's 2023/24 budget consideration, a timetable for the Masterplan recommendations, incorporating the required funding and resources allocations to meet those timelines (with the view to progressing as many of them as is reasonably possible to do so within the 2023/24 financial year).**

Attached is a schedule of estimated costs required for consideration in the 2023/24 budget.

**STATUTORY ENVIRONMENT**

**Local Government Act 1995 S3.1 (General function)** outlines that the general function of a local government is to provide for the good government of persons in its district and that a liberal approach is to be taken to the construction of the scope of that general function consideration.

**POLICY IMPLICATIONS**

There is an existing policy that addresses commercial leases (**ES2 - Establishment of Commercial Leases**) but this item does not draw out any implications relevant to it.

## FINANCIAL IMPLICATIONS

The Port is a considerable piece of infrastructure, and its operations are complex and risky. The Shire has opted in the past due to its limited financial resources, to operate the port at the “lowest practical cost”, not to the “highest practical standard”. It has been successful in keeping costs low, and fortunate that its higher exposure to risks has been well managed and therefore not converted to added costs.

A summary of the annual ratepayer cost for the last several years is outlined below and highlights that the deliberate “lowest practical cost” strategy has been successful in progressively eliminating the requirement for any ratepayer subsidy of the Port’s costs, with the Port now operating on average, in a “break-even” position:

Financial Year	Income	Expenditure (including depreciation)	Capital Expenditure	Profit/Loss	Depreciation
2021/22	\$1,503,378	\$1,529,690	\$391,085	-\$417,397	\$705,515
2020/21	\$1,499,002	\$999,497	\$183,703	\$315,802	\$244,415
2019/20	\$1,416,424	\$1,312,108	\$78,030	\$26,285	\$245,828
2018/19	\$1,423,444	\$1,353,516	\$463,324	-\$393,396	\$244,803

The revenue from Cyclone Ellie usage will likely further reinforce the likelihood of a surplus in 2022/23. Of more doubt is whether Kimberley Mineral Sands (KMS) might utilise the service for exporting its products. If it did, then ongoing surpluses are almost certain to occur, providing ample financial capacity to improve port operations and to also undertake the backlog asset management that requires attending to. Unfortunately whilst the likelihood of KMS utilising Derby Port for its current mine activities is “low”, it might utilise the Derby Port if it opens up other sand mines closer to Derby.

The April report highlighted that the Masterplan required 2023/24 budget allocations in order to progress as many of them as is reasonably possible to do so within the 2023/24 financial year. Many of the recommendations will only require existing officer time to be allocated to progress them, a couple however will require significant financial resources to be found, namely:

- Primary Recommendation #1 (vis. “to understand the Shire’s expected longer term financial commitments, undertake a Financial, Commercial, and Economic Viability Analysis of the Derby Port.....”) requires an external consultancy to be appointed. These studies can be quite expensive to undertake (depending on the specifications sought) and would be expected to cost \$100,000 for a reasonably detailed report (less if specifications were more limited or costs were shared amongst other parties – like Kimberley Development Commission or Kimberley Ports Authority); and
- Primary Recommendation #2 (vis. 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) will require either a permanent contractor, or a permanent staff resource to be appointed. The cost of this service will depend on the level of service sought, and the availability of providers. Options like a full-time experienced officer would require for example, a salary, a house, and motor vehicle; and a contract with a suitable port/commercial organisation that can provide such services would alternatively likely require regular travel from Perth or Broome, and hotel accommodation. Both options could conceivably cost over \$250,000pa for the first couple of full years (albeit for 2023/24 it would be much less as employment/contracts would not be in place until at least a few months after the budget is



adopted). As the port's operations become more standardised and controlled, it would be hoped that costs would at worst stabilise, and at best reduce.

### STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.1 Collaboration and partnership	1.1.1 Engage with our communities
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.1 Provide strong civic leadership
3. Economy	3.1 Industry and business development and growth	3.1.1 Encourage and support appropriate and sustainable investment
3. Economy	3.2 Strong economy	3.2.1 Recognise and promote the economic potential of the district

### RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Financial:</b> Without 2023/24 financial commitments, it will not be possible to implement the recommendations of the Derby Port Masterplan in a timely manner.	Possible	Severe	High	Council endorsement through the budget process to implement as many of the Masterplan recommendations as is reasonably possible to do so.
<b>Legal &amp; Compliance:</b> The operation of a port has complex legal needs and the potential for considerable legal repercussions if not operated professionally.	Likely	Major	High	Implement Masterplan recommendations to ensure legal risks are minimised.

### CONSULTATION

Whilst there was a stakeholder engagement process in place for the Masterplan, there is no requirement for added consultation in regard to this report's considerations.

### COMMENT

The Masterplan provides a defined pathway along which Council can progress its future thinking and planning for the Derby Port Precinct, and the first two primary recommendations (vis. to undertake a Financial, Commercial, and Economic Viability Analysis of the Derby Port; and to

contract in a professional port management service, or appoint dedicated Shire employed port personnel) are the most important to fund in 2023/24. Many of the other recommendations can be progressed with little or no additional funding than is normally included in the budget.

### VOTING REQUIREMENT

Simple majority

### ATTACHMENTS

#### 1. Masterplan Implementation Cost Estimates

#### RESOLUTION 50/23

**Moved:** Cr Peter McCumstie

**Seconded:** Cr Geoff Davis

**That Council:**

1. **Notes the attached Derby Port Masterplan Implementation Cost Estimate summary for Council's future 2023/24 budget considerations, and confirms that funding for the two primary recommendations will be given a suitable budget priority.**
2. **Requests administration review the small boating facilities grant application round and look to apply for in the 2022/23**

**In Favour:** Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

**Against:** Nil

**CARRIED 7/0**

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

PRIMARY RECOMMENDATIONS		
Time-line	Details	Additional Funds Estimate
December 2023	1. Work with Kimberley Development Commission and Kimberley Ports Authority 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; and the viability/potential of barge roll-on roll-off capabilities). Noting that this study can be funded from the Kimberley Mineral Sands "FID payment" if necessary; and	\$100,000 (less if specification is more limited or costs shared amongst the parties).
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.	\$250,000 in first two years, then \$150,000pa.
SECONDARY RECOMMENDATIONS		
Time-line	Head Lease	
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;	\$2 - 5,000pa (largely part of Port Manager role).
Now	2. To best enable local economic development, seek to have a SDWK Shire Councillor representative on the Kimberley Ports Authority Board, or alternatively, to have a capacity for direct input into KPA Board discussions on Derby Port matters, on an "as warranted" basis;	\$0 – Lobbying (part of Shire's normal budget).
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;	\$0 if done as part of #4 below.
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);	\$100,000.
Sub Leases		

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;	\$0 – Lobbying (part of Shire’s normal budget).
Now	6. To ensure that the Derby Port and the Warburton/ACE development can best provide for the economic development of the District, and the remaining Derby Jetty and associated port infrastructure can operate in a financially viable manner, seek funds from KPA and/or Warburton/ACE to undertake an Economic Analysis and a Shire Business Case/Community Plan;	\$0 – Lobbying (part of Shire’s normal budget).
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;	\$0 – part of Shire’s normal lease budget.
Now and Ongoing	8. To continuously work towards achieving the goals of the Shire’s long-term port strategy, manage all Derby Port leases consistently;	\$0 – part of Shire’s normal port budget.
Now and Ongoing	9. To protect the Shire from risks, ensure all new/extended sub-leases are based on the current KPA supplied and approved sub-lease document, and have been endorsed by the Shire’s legal advisors as being appropriate;	\$0 – part of Shire’s normal lease budget.
Now	10. To facilitate the potential of an additional revenue stream through the re-leasing of the old BP sub-lease site, secure a new lessee, or alternatively, utilise funds in the Shire’s Creditor’s Account associated with this site, to undertake remedial works (and then re-advertise the site for lease);	\$0 – part of Shire’s normal lease budget.
Now	11. To best coordinate port lease areas and port uses: <ul style="list-style-type: none"> <li>a. avoid permitting new leases until the Masterplan is complete and port direction and operations are settled; and</li> <li>b. review existing leases to reaffirm their validity and relevance, and where practical, cancel non-performing leases;</li> </ul>	<p>\$0 – part of Shire’s normal lease budget.</p> <p>\$0 – part of Shire’s normal lease budget.</p>
Review in April annually	12. 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;	\$2,500 legal fees.
Now	13. Enter into a formal Licence Agreement for the use of, and maintenance of, the Barge Access Facility;	\$0 – part of Shire’s normal lease budget.
Now	14. To maximise the Shire’s capacity to offer viable commercial lease periods for Port developments, the Shire actively engage with KPA to establish the current (to 2040) and the future (post 2040) position on, amongst other things, the Shire’s Port Head Lease, future Port land sub-lease considerations, and the arrangements for “significant” port developments;	\$0 – Lobbying (part of Shire’s normal budget).
<b>Financial Sustainability</b>		
Review in	15. To minimise port operating expenditure, work with	\$0 – Part of

September annually	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). Any savings to form part of the overall Port budget and where it is responsible to do so, invest them back into the Port;	Shire's normal budget.
Now and Ongoing	16. To maximise the financial viability of the Derby Port:	
Now and Ongoing	<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>	\$0 – Part of Shire's normal budget.
Now and Ongoing	17. 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;	\$0 – Part of Shire's normal budget.
2030	18. 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;	\$0 – Part of Shire's normal lease budget.
June 2023	19. 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;	\$0 – Lobbying (part of Shire's normal budget).
Review in June annually	20. 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);	\$0 – Part of Shire's normal budget.
Review in June annually	21. To prepare financially for Kimberley Mineral Sands' international exports that the port will be responsible for, where justified, "ring-fence" funds received from KMS to meet any new higher level operational expectations, like new licenses, or higher standard assets/operations/security, etc.;	\$0 (budget consideration).
		\$0 (budget consideration).
	<b>Asset Management</b>	
Now	22. To maximise port asset sustainability and best maintain the Derby Jetty and associate infrastructure, and to comply with Head Lease requirements, Council to:	Net \$0 cost.
March 2023	<ul style="list-style-type: none"> <li>a. reinforce its Asset Management Policy (F2) by where practical, "ring-fencing" funds achieved from the Kimberley Mineral Sands lease revenues to meet those asset management policy expectations;</li> <li>b. work with Kimberley Ports Authority to jointly prepare a detailed long term Jetty asset</li> </ul>	\$0 – Part of Shire's normal

	management program for the Shire's consideration;	budget.
March annually	c. in consultation with the Kimberley Ports Authority, seek out Government capital refurbishment grants provided for local government assets;	\$0 – Lobbying (part of Shire's normal budget).
March annually	d. in consultation with the Kimberley Ports Authority, 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	\$0 – Lobbying (part of Shire's normal budget).
June annually	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");	\$0 – Part of Shire's normal budget.
Review at each development consideration	23. 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);	≈\$25,000pa (+10% of annual \$250,000 estimated capital costs)
December annually	24. To best understand the asset management needs of the jetty, ensure regular Condition Inspection Reports are undertaken;	\$5 - 10,000pa
April annually	25. 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;	\$0 – Lobbying (part of Shire's normal budget).
Now	26. 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);	\$0 – Lobbying (part of Shire's normal budget).
March 2023	27. 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;	\$0 – Part of Shire's normal accounting budget.
October 2023	28. To meet port standards of thoroughfare construction, define and reconstruct roads and other thoroughfares within the port precinct;	\$500,000.
Now	29. To minimise jetty stress on the basis that a structural analysis determines that the jetty is overstressed and/or poses a risk (and to minimise asset management costs) impose heavy vehicle restrictions by informing large truck operators (e.g. fuel deliveries) that no trucks larger than say, RAV10, will be permitted to access the jetty structure after 30 June 2023 without specific approval from the Director – Technical & Development Services;	\$5-10,000 (structural analysis).



2030 and ongoing	30. 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;	\$0 – 25,000.
<b>Port Management</b>		
October 2023	31. To enable (for example) better land planning, safe transport/pedestrian routes and maximise leasable areas, in consultation with the KPA funded project of the same purpose, 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 long term boat trailer parking bays, lease area boundaries, transport routes and turning areas, barge loading restriction areas, and pedestrian zones, etc);	\$2,500 (mapping costs share)
December 2023	32. 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);	\$0 – Part of Shire's normal budget.
December 2023	33. 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;	\$2,500.
March 2024	34. 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;	\$20,000 (engineering survey and design).
	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 for example, floating walk/boat guiding platform on side of ramp.	\$0 – Part of (a) above.
March 2024	c) To minimise costs, and if practical, there should be a preference of only having one recreational boat ramp;	\$0 (Council decision)
Ongoing	d) To provide safer recreational boat launching and retrieval facilities (in most weather and tidal conditions) study the potential of a groyne;	\$100,000 (only engineering study, survey and design).
2025	35. To ensure environmentally friendly commercial boat operations can be maintained, construct a suitable commercial sized boat wash-down and maintenance bay;	\$50,000
March 2023	36. To promote tourism and pedestrian access to the jetty, maintain <i>Jetty Walk</i> (or a similar facility) for	\$0 – Part of

2030	dedicated bicycle and pedestrian access;	Shire's normal budget.
March 2024	37. 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);	\$5,000 (engineering survey).
Now	38. To have contemporary operational practices in place, undertake a review of all relevant Port Management Procedures and Plans (e.g. dangerous goods, workplace safety, jetty and barge loading/unloading practices, drainage, environmental, marine safety, conflicts of use/risk, etc.) in consultation with KPA;	\$20 – 25,000 various specialist consultants to undertake assessments.
2030	39. To maintain land planning control (including when the Head Lease eventually expires): 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;	\$0 – Part of Shire's normal budget. \$0 – Part of Shire's normal budget.
<b>Economic Development Opportunity</b>		
March 2023	40. To locate potential economic development opportunities, partner with KPA to undertake a port economic study to understand the potential opportunities for Broome and Derby (for example, to study any locational and cost advantages for off-shore servicing from the Derby Jetty);	\$0 (if part of primary recommendation #1)
Now and Ongoing	41. 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, (through the approved and preferred KPA supplied sub-lease or otherwise) to ensure development occurs within a reasonable time-line;	\$0 – Part of Shire's normal lease budget.
Now and Ongoing	42. 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;	\$0 – Part of Shire's normal lease budget.
As developments considered	43. 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;	\$0 – Part of Shire's normal lease budget.
As developments are submitted	44. 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) requires that developers fund an independent economic analysis for Council, as part of their development/lease application;	\$0 – Part of Shire's normal lease budget.
2030	45. To enhance local and tourist enjoyment, work towards securing a replacement café/restaurant on the jetty itself, possibly built into the existing jetty	\$0 – Part of

	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;	Shire's normal lease budget.
Now	46. To improve tourism potential:	
Now	a) make contact with the several Kimberley Tourist Boat operators, with the view to including a tourist boat stop-over; and	\$0 – Part of Shire's normal lease budget.
2030	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;	\$0 – Part of Shire's normal lease budget.
Annually and Ongoing	c) lobby State and Federal Governments to fund an Aboriginal Cultural Centre/Art Showroom on or near the jetty (could include a restaurant/cafe);	\$0 – Lobbying (part of Shire's normal budget).
	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).	\$0 – Part of Shire's normal lease budget.
<b>Community and Stakeholder Management</b>		
August 2023	47. 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;	\$0 – Part of Shire's normal lease budget.
Now and Ongoing	48. 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;	\$0 – Part of Shire's normal lease budget.
June annually	49. To promote the area and reinforce its availability to the local community, arrange occasional local events and ceremonies through existing community services resources;	\$5,000pa
Now	50. To maintain appropriate levels of community access for recreation, fishing, tourism, boating, etc., use the information gleaned from the Community Strategic Planning Process;	\$0 – Part of Shire's normal lease budget.
Now and Ongoing	51. 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.	\$0 – Part of Shire's normal lease budget.

### 11.3 EARLY POLLING PLACES - 2023 ELECTION

**File Number:** 2001

**Author:** Neil Hartley, Director - Strategic Business

**Responsible Officer:** Amanda Dexter, Chief Executive Officer

**Authority/Discretion:** Executive

#### SUMMARY

The WA Electoral Commissioner conducts the Shire's elections as "in person" type elections (as this is the only voting option that allows the Returning Officer to invite and collect votes at the numerous individual isolated communities within the district).

Officers have been asked to review the early voting stations chosen in the past.

This report proposes that there be no changes to the current format or extent of those early polling places for the 2023 elections, but that a review be undertaken in time for implementation for the 2025 elections.

#### DISCLOSURE OF ANY INTEREST

Nil by the Author.

#### BACKGROUND

All Western Australian Local Government Ordinary Elections are conducted on the third Saturday in October, in every second year. The next ordinary election day for all Western Australian local governments, is therefore Saturday, 21 October 2023.

The 2021 Shire of Derby/West Kimberley elections were conducted by the WA Electoral Commissioner and the method of conducting the voting was "in person". This protocol has been consistently applied in previous election years and was endorsed as the most appropriate system for the upcoming 2023 elections. Districts with remote communities often conduct their elections as "in-person elections" (e.g. Broome, Halls Creek, and Menzies) as the Local Government Act provides the Returning Officer with the authority to undertake visits to selected remote communities to accept on-site, elector votes. It does cost more to offer this services, but it provides community convenience as it limits the need for community members to travel to Derby or Fitzroy Crossing to lodge their vote.

It has been asked that an investigation/review be conducted into Imintji continuing to remain a remote early polling place given the apparent low voter turnouts in the past, and that the review consider having a polling booth at Mowanjum Community, either on the day, or as an early booth (noting that both Federal and State elections have a polling booth on Election Day at Mowanjum, and some Mowanjum electors have apparently had difficulties with accessing transport into Derby to vote).

#### STATUTORY ENVIRONMENT

**Local Government Act 4.67 (Where to vote in person)** allows the Returning Officer to invite electors to cast a vote (vis. an early vote) before election day at the local government's offices, or at a place notified for that purpose in the election notice (like a remote district community).

## POLICY IMPLICATIONS

There are no perceived policy implications arising from the officer's recommendation.

## FINANCIAL IMPLICATIONS

The Western Australian Electoral Commission charges "cost recovery" for its coordination of the elections of local governments. Each early voting station therefore has a different cost.

If the Shire was to add Mowanjum as a Polling Place for the Election Day, it would need to have secure facilities, sufficient furniture in place, and the presence of at least two staff for the hours the station is to be open. The polling station does not need to be open for the full 8.00am to 6.00pm period and could maintain for example, similar hours to the Fitzroy Crossing polling station, which is only open for only part of the day (essentially to allow votes cast to be transported to Derby in time for the 6.00pm commencement of vote counting).

Full cost estimations have not been undertaken, but the cost of expanding, or the saving in reducing the number of early voting stations would in context, is expected to be relatively minor. Adding or subtracting a day (and one or two extra early voting stations) for the Returning Officer Council would likely add/save no more than \$2,000 - 3,000 to the overall election costs, and adding a dedicated polling station at Mowanjum for several hours on election day would likely only cost about \$3,000 - 5,000 to organise and manage.

## STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.1 Collaboration and partnership	1.1.1 Engage with our communities
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.2 Provide strong governance

## RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Financial:</b> Electoral Commission costs for more voting stations could be seen as being a poor exchange for additional votes likely to be lodged. Or, the savings might not be seen as being significant enough to warrant the withdrawal of some early voting stations.	Possible	Insignificant	Low	Keep community informed of reasoning of Council's decision.

<b>Reputation:</b> The choice Council makes might be seen by some as disadvantaging some in exchange for a cost saving, or costing too much for the benefits that might be gained.	Possible	Moderate	Medium	Keep community informed of reasoning of Council's decision.
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## CONSULTATION

Community consultation would be warranted but the availability of time to undertake a meaningful consultation process, and decide an outcome, and implement that in sufficient time to accommodate the 2023 elections, is insufficient. The community consultation process would be “rushed” and would therefore be unlikely to solicit a comprehensive community response, with the added risk being that commentary might focus on the limited time to make a contribution rather than focus on the positive opportunity to consider the options open for feedback.

## COMMENT

Whilst the cost of expanding, or the saving in reducing the number of early voting stations is not exactly known, they would in context, likely be relatively minor. Of more importance for the 2023 elections is the need to consider whether it is warranted to undertake community consultation on the question. If Council does decide community consultation is warranted, then it would be better to defer this question until after the 2023 elections, as time is considered too short to undertake a meaningful consultation process now, and then decide an outcome, and then implement that decision in sufficient time to accommodate the 2023 election timeline. The community consultation process would be “rushed” (or at potentially be perceived that way by the community) and likely not be received well, irrespective of the positive intentions of the consultation process.

## VOTING REQUIREMENT

Simple majority

## ATTACHMENTS

### 1. WA Electoral Commission Cost Proposal

#### OFFICER RECOMMENDATION / RESOLUTION 51/23

**Moved:** Cr Paul White

**Seconded:** Cr Rowena Mouda

**That Council:**

1. Supports the proposal to investigate the expansion of the early voting stations across the district, but in light of the shortness of time available prior to the 2023 elections, that no decision be made at this point in time; and
2. Decides that a community consultation process be scheduled to commence following the 2023 election process, to invite input and that a further report be presented to Council in time for any changes suggested to be implemented and to be part of the 2025

**elections.**

In Favour: Nil

Against: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

**LOST 0/7**

**COUNCIL RESOLUTION 52/23**

**Moved:** Cr Paul White

**Seconded:** Cr Rowena Mouda

**That Council:**

**That Requests that the early polling sites be amended if possible and agreeable to the Electoral Commission to remove Imintji and if agreeable to Mowanjum be included for the 2023 election.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**

***Reason for Change:*** Based on previous experience, Elected Members agreed that better engagement would be reached with the above proposed sites.



LGE 028

Ms Amanda Dexter  
Chief Executive Officer  
Shire of Derby/West Kimberley  
PO Box 94  
DERBY WA 6728

Dear Ms Dexter

**Local Government Ordinary Election: 2023**

The next local government ordinary elections will be held on 21 October 2023. While this is still some distance in the future, I have enclosed an estimate for your next ordinary election to assist in your 2023/2024 budget preparations.

The estimated cost for a 2023 voting in person election is \$26,000 inc GST which has been based on the following assumptions:

- 4,450 electors
- response rate of approximately 30%
- 5 vacancies
- count to be conducted at the offices of the Shire of Derby/West Kimberley
- appointment of a local Returning Officer.

The Commission is required by the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis. The price you have been quoted is an estimate only, and the final cost incurred may vary depending on a range of factors.

Costs not incorporated in this estimate include:

- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission incurred as part of an invalidity complaint lodged with the Court of Disputed Returns
- the cost of any casual staff to assist the Returning Officer on election day or night
- any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

179918

As you are aware, the Government is currently considering reforms to the *Local Government Act 1995*, which include how elections are to be conducted. In order to assist with your local government's budget planning, we have included, to the best of our knowledge, costs that will arise from the changes proposed in legislation. For example, if under the amendments your local government will be required to conduct a mayoral/presidential election this has been included.

Some local governments may also note an increase in costs from their 2021 ordinary costs. These include increases arising from inflation in recent years affecting salaries for Returning Officers and other staff, printing and packaging costs as well as the increase in postage announced by Australia Post. Additional costs from the Commission have been included arising from improved processing procedures and additional resources to supplement the Commission's education, complaints management, investigation and legal efforts.

In order for the Commission to be responsible for the conduct of your election, the first step required by the *Local Government Act 1995* is my written agreement to undertake the election.

As such, you may take this letter as my agreement to be responsible for the conduct of the ordinary elections in 2023 for the Shire of Derby/West Kimberley in accordance with section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required.

In order to have the 2023 ordinary election conducted by the Commission as a voting in person election, the next step will be for your council to pass the following motion by absolute majority:

- Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary election together with any other elections or polls which may also be required.

It would be greatly appreciated if this item was considered at your March council meeting, to enable the Commission to have sufficient time to work with you to effectively conduct the election.

I look forward to conducting this election for the Shire of Derby/West Kimberley in anticipation of an affirmative vote by Council. If you have any further queries please contact Shani Wood Director, Election Operations on 9214 0400.

Yours sincerely



Robert Kennedy  
**ELECTORAL COMMISSIONER**

9 February 2023

**11.4 CHIEF EXECUTIVE OFFICER ANNUAL LEAVE/ ACTING CHIEF EXECUTIVE OFFICER ARRANGEMENTS****File Number:** 5355**Author:** Sarah Smith, Executive Services Coordinator**Responsible Officer:** Amanda Dexter, Chief Executive Officer**Authority/Discretion:** Executive**SUMMARY**

For Council to approve a request from the Chief Executive Officer to take annual leave from the 7 June 2023 to 22 June 2023 inclusive and to appoint an Acting CEO for the duration.

**DISCLOSURE OF ANY INTEREST**

The CEO declares a financial interest as they are the person requesting the leave.

**BACKGROUND**

The CEO is requesting leave for the Shire of Derby/West Kimberley from 7 June 2023 to 22 June 2023 inclusive and has adequate leave and time and lieu provision to do so.

**STATUTORY ENVIROMENT**

**S. 5.36 (*Local government employees*)** of the Local Government Act 1995 requires that every local government employs a Chief Executive Officer.

**S. 5.39 (*Contracts for CEO and senior employees*)** permits a Council to appoint a person to act in the position of a CEO for a term not exceeding one year without a written contract for that position.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The Acting CEO will receive a higher duties allowance during the term. Provision has been made in the 2022/23 Annual Budget for the CEO's Leave and this allowance.

**STRATEGIC IMPLICATIONS**

STRATEGIC AREA	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation.	1.2.2 Provide strong governance.

**RISK MANAGEMENT CONSIDERATIONS**

<b>RISK</b>	<b>LIKELIHOOD</b>	<b>CONSEQUENCE</b>	<b>RISK ANALYSIS</b>	<b>MITIGATION</b>
<b>Business Interruption:</b> Not appointing an acting CEO will limit the Shire's capacity to satisfactorily manage the organisation and undertake the Council's directions.	Rare	Major	Low	Appoint a suitably qualified A/CEO to support operations and efficient decision making.

**CONSULTATION**

Shire President.

**COMMENT**

The CEO has requested leave from 7 June 2023 to 22 June 2023 inclusive adequate Annual Leave is accrued to take the requested leave.

It is a requirement under the Local Government Act that an Acting Chief Executive Officer be appointed during these periods of absence.

The Director of Development and Technical Services is adequately qualified and will provide sound support and strategic direction if required, during the CEO's absence.

**VOTING REQUIREMENT**

Simple majority

**ATTACHMENTS**

Nil

**RESOLUTION 53/23**

**Moved:** Cr Paul White

**Seconded:** Cr Rowena Mouda

**That Council:**

- 1. Approve the executive and annual leave of the Chief Executive Officer, Amanda Dexter for the period commencing on the 7 June 2023 to 22 June 2023, inclusive;**
- 2. Appoint the Director of Development and Technical Services, Wayne Neate, as the Acting Chief Executive Officer for the period from 7 June 2023 to 22 June 2023, inclusive; and**
- 3. Approve the payment of higher duties to the Director of Development and Technical Services, equivalent to the current CEO, during this period.**

**In Favour:** Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

**Against:** Nil

	<b>CARRIED 7/0</b>
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**11.5 CHRISTMAS CLOSURE 2023/24****File Number: 4150****Author: Amanda Dexter, Chief Executive Officer****Responsible Officer: Amanda Dexter, Chief Executive Officer****Authority/Discretion: Administrative****SUMMARY**

For Council to approve the closure of the Shire's operations over the Christmas and New Year period for 2023/24. To cover the days in addition to public holidays during the closure recommended in this report, employees will be required to take annual leave. The arrangement allows staff to travel to spend the festive season with loved ones if they are able to, assists with the ongoing management of staff leave liability and has been generally well accepted by the community.

**DISCLOSURE OF ANY INTEREST**

The CEO is subject to the proposed closure.

**BACKGROUND**

In rural Local Governments it is an accepted practice for the staff to take annual leave at Christmas and New Year resulting in the suspension of Shire operations to all but essential services for the period of leave.

If this arrangement is accepted by Council, the Senior Management Group will develop a contingency plan to ensure essential services are adequately delivered to the community and suitable public notice regarding closures will be provided to minimise any inconvenience.

Apart from normal Public Holiday arrangements, staff take the intervening days as Annual Leave, or if available, Time in Lieu or Leave Without Pay. The employee may only return to work to carry out set tasks as negotiated with their Director/Manager.

The Derby and Fitzroy Crossing waste management facilities are managed by a third party and are closed on Christmas Day. Accordingly, no kerbside collection occurs, on Christmas Day (this is a contractual arrangement).

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil – staff will be required to take leave to cover payment of wages on days that are not public holidays.

**STRATEGIC IMPLICATIONS**

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.1 Provide strong civic leadership

1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.4 Attract and effectively use resources to meet community needs
1. Leadership and Governance	1.3 Effective Communication	1.3.1 Strive for excellence in customer service
1. Leadership and Governance	1.3 Effective Communication	1.3.3 Use multiple channels to distribute information about services, programs, places and spaces

### RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Business Interruption:</b> Ability to respond to unplanned event.	Possible	Moderate	Low	Advertise closure to the community.  A roster and contact details for critical staff will be developed to ensure resources are available if required.

### CONSULTATION

Consultation was undertaken with Managers responsible for service areas.

Adequate notice of closure will be provided to the public to further minimise any disruptions. This will include advertising on the door of the Administration Building, Shire Notice Boards, Shire Facebook Page, Shire Website and letter box drop leading up to the Christmas closure period. The Shire will advise customers for Department of Transport Licencing services that alternative options for access are available for this period.

### COMMENT

The success of previous Christmas closures have occurred as key contact lists for critical staff in the event of an emergency have been developed. An informal rostering of key personnel occurs ensuring there are staff available in town should they be required, with a skeleton works crew undertaking essential services.

It is recommended that Council support the close of all non-essential operations or reduce opening hours over the 2023/24 Christmas period as outlined in Table 1 below.

**Table 1**

<b>Derby and Fitzroy Crossing Administration Centres (including Fitzroy Crossing Visitors Centre and Library) Derby and Fitzroy Crossing Works Depot</b>	
Date	Action
Monday 18 December 2023	OPEN for normal business
Tuesday 19 December 2023	OPEN for normal business



Wednesday 20 December 2023	CLOSED (Annual Leave)
Thursday 21 December 2023	CLOSED (Annual Leave)
Friday 22 December 2023	CLOSED (Annual Leave)
Saturday 23 December 2023	CLOSED (Weekend)
Sunday 24 December 2023	CLOSED (Weekend)
Monday 25 December 2023	CLOSED (Christmas Day Public Holiday)
Tuesday 26 December 2023	CLOSED (Boxing Day Public Holiday)
Wednesday 27 December 2023	CLOSED (Annual Leave)
Thursday 28 December 2023	CLOSED (Annual Leave)
Friday 29 December 2023	CLOSED (Annual Leave)
Saturday 30 December 2023	CLOSED (Weekend)
Sunday 31 December 2023	CLOSED (Weekend)
Monday 1 January 2024	CLOSED (New Year's Day Public Holiday)
Tuesday 2 January 2024	OPEN for normal business
<b>Derby Memorial Pool</b>	
Monday 18 December 2023	OPEN for normal business
Tuesday 19 December 2023	OPEN for normal business
Wednesday 20 December 2023	OPEN for normal business
Thursday 21 December 2023	OPEN for normal business
Friday 22 December 2023	OPEN for normal business
Saturday 23 December 2023	OPEN for normal business
Sunday 24 December 2023	Early Close – 5:30am – 7:30am and 11:00am – 4:30pm
Monday 25 December 2023	CLOSED (Christmas Day)
Tuesday 26 December 2023	Public Holiday – Open 11:00am – 5:00pm (Boxing Day)
Wednesday 27 December 2023	Reduced Hours – Open 11:00am – 5:00pm
Thursday 28 December 2023	Reduced Hours – Open 11:00am – 5:00pm
Friday 29 December 2023	Reduced Hours – Open 11:00am – 5:00pm
Saturday 30 December 2023	Reduced Hours – Open 11:00am – 5:00pm
Sunday 31 December 2023	Reduced Hours/ Early Closed – 11:00am – 4:30pm
Monday 1 January 2024	CLOSED (New Year's Day)
Tuesday 2 January 2024	Reduced Hours – Open 11:00am – 5:00pm
Wednesday 3 January 2024	OPEN for normal business

<b>Derby Public Library</b>	
Monday 18 December 2023	OPEN for normal business
Tuesday 19 December 2023	OPEN for normal business
Wednesday 20 December 2023	CLOSED (Annual Leave)
Thursday 21 December 2023	CLOSED (Annual Leave)
Friday 22 December 2023	CLOSED (Annual Leave)
Saturday 23 December 2023	CLOSED (Annual Leave)
Sunday 24 December 2023	CLOSED (Weekend)
Monday 25 December 2023	CLOSED (Christmas Day Public Holiday)
Tuesday 26 December 2023	CLOSED (Boxing Day Public Holiday)
Wednesday 27 December 2023	CLOSED (Annual Leave)
Thursday 28 December 2023	CLOSED (Annual Leave)
Friday 29 December 2023	CLOSED (Annual Leave)
Saturday 30 December 2023	CLOSED (Annual Leave)
Sunday 31 December 2023	CLOSED (Weekend)
Monday 1 January 2024	CLOSED (New Years Day Public Holiday)
Tuesday 2 January 2024	CLOSED (Annual Leave)
Wednesday 3 January 2024	CLOSED (Annual Leave)
Thursday 4 January 2024	CLOSED (Annual Leave)
Friday 5 January 2024	CLOSED (Annual Leave)
Saturday 6 January 2024	CLOSED (Annual Leave)
Sunday 7 January 2024	CLOSED (Weekend)
Monday 8 January 2024	OPEN for normal business

**VOTING REQUIREMENT**

Simple majority

**ATTACHMENTS**

Nil

**RESOLUTION 54/23****Moved:** Cr Peter McCumstie**Seconded:** Cr Andrew Twaddle**That Council:**

1. Endorse the proposed Christmas closure of Shire operations from Wednesday, 20 December 2023 to Monday, 1 January 2024 (inclusive) as outlined in Table 1 of this report;
2. Notes the extended closure of the Derby Public Library (re-opening Monday 8 January);

3. **Notes the Derby and Fitzroy Crossing waste management sites are closed and no kerbside collection will occur on the Christmas Day public holiday;**
4. **Notes the Derby Memorial Swimming Pool opening and closing times;**
5. **Acknowledges that employees will utilise annual or accrued leave or leave without pay for the above periods which are not public holidays; and**
6. **Notes the above closures are subject to a contingency plan outlining staff required to ensure essential services continue to be provided to the public.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**

**11.6 CHANGE OF MEETING DATES FOR THE DECEMBER 2023 AUDIT COMMITTEE MEETING AND ORDINARY COUNCIL MEETING****File Number:** 4150 - Meeting Procedures**Author:** Sarah Smith, Executive Services Coordinator**Responsible Officer:** Tamara Clarkson, Acting Director of Corporate Services**Authority/Discretion:** Administrative**SUMMARY**

This report is for Council to consider changing the time of the Audit Committee Meeting and Ordinary Council Meetings in December to allow for presentation of the Audit Report, including the Annual Financial Statements, to ensure adequate review prior to adoption by Council.

**DISCLOSURE OF ANY INTEREST**

Nil by Author or Responsible Officer.

**BACKGROUND**

Every year, Local Governments are required to present the audited financial statements to both the Audit Committee and Council for adoption.

While the Shire would usually hold these meetings one week apart to allow for adequate revision, the end of year Christmas shutdown means that these meetings are held on the same day. Strong governance requires Elected Members to read and understand prior to voting on the Officer recommendation.

**STATUTORY ENVIRONMENT**

*Local Government (Administration) Regulations 1996*

Part 2 - Council and Committee meetings

12. Meetings, public notice of (Act s. 5.25(1)(g))

- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.2 Provide strong governance
1. Leadership and Governance	1.1 Collaboration and	1.1.1 Engage with our communities

	partnership	
1. Leadership and Governance	1.3 Effective Communication	1.3.3 Use multiple channels to distribute information about services, programs, places and spaces

### RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Legal &amp; Compliance:</b> Not allowing for oversight of the Audit Report including the Annual Financial Statements	Possible	Minor	Low	Adoption of amended Audit and Council meeting dates as recommended.

### CONSULTATION

CEO and Council.

### COMMENT

The December Audit Committee Meeting and the Ordinary Council Meetings are both scheduled for 14 December 2023 at 4:00pm and 5:30pm (respectively). The Audit Planning Memorandum presented to Elected Members outlines the Office of Auditor General and RSM Australia's timeframes to ensure completion of the annual audit. It is proposed that the meeting dates be rescheduled to allow sufficient time for Elected Member's to review the Audit Report including the Annual Financial Statements.

#### Proposed Meeting Date Changes:

- Audit Committee Meeting: Wednesday, 13 December 2023 at 4:00pm; and
- Ordinary Council Meeting: Friday, 15 December 2023 at 5:30pm.

Agendas and attachments will be distributed using the usual communication channels.

### VOTING REQUIREMENT

Simple majority

### ATTACHMENTS

1. **Public Notice - Date Changes of the Audit Committee Meeting and the Ordinary Council Meeting - 14 December 2023** [!\[\]\(5d60fe8e38bc12bfb78103fc624e324c\_img.jpg\)](#) 

**RESOLUTION 55/23****Moved: Cr Paul White****Seconded: Cr Andrew Twaddle****That Council:**

- 1. Alter the date of the Audit Committee Meeting from Thursday, 14 December 2023 to Wednesday, 13 December 2023 at 6:00pm;**
- 2. Alter the date of the Ordinary Council Meeting from Thursday, 14 December 2023 to Friday, 15 December 2023 at 5:30pm; and**
- 3. Give local public notice of the amendment of meeting dates as required by the *Local Government (Administration) Regulations*.**

**In Favour:** Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

**Against:** Nil

**CARRIED 7/0**

Change from 4:00pm to 6:00pm in agreement by all Councillors .



**Shire of Derby /  
West Kimberley**

## **Public Notice**

# **Date Changes of the Audit Committee Meeting & Ordinary Council Meeting - 14 December 2023**

In accordance with the *Local Government Act 1995*, s.5.25(1)(g) and *Local Government (Administration) Regulations 1996*, r.12, notice is hereby given of a change of **dates** for the following Audit Committee Meeting and Ordinary Council Meeting:

- Audit Committee Meeting:  
Wednesday, 13 December 2023 at 4:00pm; and
- Ordinary Council Meeting:  
Friday, 15 December 2023 at 5:30pm.

Meetings will be held in the Derby Council Chamber  
- 31 Clarendon Street, Derby WA 6728.

For any inquires please contact Sarah Smith on 9191 0999.

Amanda Dexter  
**Chief Executive Officer**



**12 CORPORATE SERVICES****12.1 AWARDING OF TENDER T1-2023 CLEANING OF VARIOUS SHIRE OFFICE BUILDINGS AND FACILITIES IN FITZROY CROSSING****File Number:** 0450**Author:** Steve Ross, Asset Coordinator**Responsible Officer:** Wayne Neate, Director Technical and Development Services**Authority/Discretion:** Executive**SUMMARY**

This item is for Council to consider the awarding of Tender T1-2023 which is the Cleaning of Various Buildings in Fitzroy Crossing to Cleaning Gardening and Tree Services.

**DISCLOSURE OF ANY INTEREST**

Nil by Author and Responsible Officer.

**BACKGROUND**

Cleaning of various Shire office buildings and facilities within Fitzroy Crossing has been on an ad-hoc basis, including not occurring at all for some periods, over a number of years. This has been an ongoing disappointment to the community and users of the Shires facilities.

Various agreements and arrangements have been in place in the past to address the situation, the most recent is Cleaning Gardening and Tree Services have been engaged on a Monthly basis to clean the Shire's buildings and facilities.

**STATUTORY ENVIRONMENT**

**Local Government Act 1995** – 3.57 Tenders for the providing goods or services and

**Local Government (Functions and General) Regulations 1996 Part 4** – Tenders for providing goods and services.

**POLICY IMPLICATIONS**

AF1 – Procurement of Goods and Services

AF33 – Regional Price Preference Policy

**FINANCIAL IMPLICATIONS**

Proposed contract pricing is more expensive than previous years, due to the increased cost of labour and the requirement for higher rates paid for weekend work and public holidays.

The new contract includes cleaning of the following facilities in Fitzroy Crossing:

- Visitor Centre (including toilets, stores etc.);
- Public toilets;
- Community Hall (Old Recreation building);
- Basketball Court and change room building; and

- Staff accommodation in the depot yard.

### STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
2. Community	2.2 Healthy Communities	2.1.2 Endeavour to provide safe, clean and well-lit streets and public spaces

### RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Property:</b> The Buildings and facilities are not maintained and cleaned to a reasonable standard, impacting on health concerns and useability	Almost Certain	Moderate	Medium	The Council implements cleaning service commensurate to the services across other areas of the Shire and improves the level of service delivery in Fitzroy Crossing
<b>Reputation:</b> The Shire's reputation is diminished due to the inability to clean and maintain its buildings and facilities appropriately.	Almost Certain	Moderate	High	The Council implements cleaning service commensurate to the services across other areas of the Shire and improves the level of service delivery in Fitzroy Crossing

### CONSULTATION

Tender T1-2023 (being the cleaning of Various Shire Office Buildings and Facilities) was advertised in local and state wide forums, with the tender closing at 2.00pm on the 28 April 2023.

The advertised tender allowed for a minimum of 14 days for individuals or companies to submit tenders, which included the opportunity to view and inspect the buildings that formed the tender.

In developing the service levels and requirements which formed the basis of the tender, staff locally and the management teams were consulted.

### COMMENT

It is recommended the tender be awarded to the contractor that provides a best value for money approach and even though there is only one tenderer they do provide value for money and it is felt that they will undertake the cleaning works at a continued high level.

Alternative approach could be the works carried out in-house. Historically it has been difficult to attract and maintain staff in Fitzroy Crossing, and my concern is that we may find ourselves without cleaners for prolonged periods of time.

Cost of set up.

- Vehicle, in 12 Months' time – \$75,000 plus ongoing costs
- Wages 2 people – \$160-200k per annum
- Material set up – \$15-20k
- Potential requirement for staff housing – N/A
- Ability to attract and maintain staff, on-going issues, additional management.

The selection criteria for the tender were as follows:

Criteria	%
Company Track History and Record	20
Key Personal and Experience	20
Tenderer's Capacity and Resources	15
Demonstrated Understanding	15
Local Supplier Details	10
Quality Management System	10
Risk	10

The Shire administration consider Cleaning Gardening and Tree Services' capable of the work and recommend from the information provided that they be awarded the tender. Please find attached confidential prices and scores for Cleaning Gardening and Tree Services.

## VOTING REQUIREMENT

Simple majority

## ATTACHMENTS

### 1. Pricing and Scoring Sheet T01-2023 - Confidential

#### OFFICER RECOMMENDATION

That Council:

1. Award Tender T1-2023 Cleaning of various facilities in Fitzroy Crossing to Cleaning Gardening and Tree Services;
2. Not award T1-2023 Cleaning of various facilities in Fitzroy Crossing to any party; and
3. Authorise the Chief Executive Officer to sign the contract.

#### RESOLUTION 56/23

Moved: Cr Andrew Twaddle

Seconded: Cr Paul White

That Council:

1. Award Tender T1-2023 Cleaning of various facilities in Fitzroy Crossing to Cleaning Gardening and Tree Services; **or**

~~Not award T1-2023 Cleaning of various facilities in Fitzroy Crossing to any party;~~

**2. Authorise the Chief Executive Officer to sign the contract.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**

***Reason for Change:*** Due to administration error the word “or” was missing from the original recommendation.

**12.2 AWARDING OF TENDER T2-2023 CLEANING OF VARIOUS SHIRE OFFICE BUILDINGS IN DERBY****File Number:** 0450**Author:** Steve Ross, Asset Coordinator**Responsible Officer:** Wayne Neate, Director Technical and Development Services**Authority/Discretion:** Executive**SUMMARY**

This item is for Council to consider the awarding of Tender T2-2023 which is the Cleaning of Various office Buildings in Derby to Skippers Cleaning.

**DISCLOSURE OF ANY INTEREST**

Nil by Author and Responsible Officer.

**BACKGROUND**

Cleaning of various Shire office buildings in Derby had been contracted to Skipper Cleaning, Concluding at the end of June 2023.

**STATUTORY ENVIRONMENT**

**Local Government Act 1995** – 3.57 Tenders for the providing goods or services and

**Local Government (Functions and General) Regulations 1996** – Part 4 – Tenders for providing goods and services.

**POLICY IMPLICATIONS**

AF1 – Procurement of Goods and Services

AF33 – Regional Price Preference Policy

**FINANCIAL IMPLICATIONS**

- There is no significant change to the work included in the previous contract compared to the work which is included in this contract.
- The increased cost for this contract, we feel, is in line with the cost of staffing and increased costs associated with running a business in Derby, approx. 20%.

**STRATEGIC IMPLICATIONS**

GOAL	OUTCOME	STRATEGY
2. Community	2.2 Healthy Communities	2.1.2 Endeavour to provide safe, clean and well-lit streets and public spaces

**RISK MANAGEMENT CONSIDERATIONS**

<b>RISK</b>	<b>LIKELIHOOD</b>	<b>CONSEQUENCE</b>	<b>RISK ANALYSIS</b>	<b>MITIGATION</b>
<b>Property:</b> The Buildings and facilities are not maintained and cleaned to a reasonable standard, impacting on health concerns and useability	Almost Certain	Moderate	Medium	The Council implements cleaning service commensurate to the services across other areas of the Shire and improves the level of service delivery in Derby
<b>Reputation:</b> The Shire's reputation is diminished due to the inability to clean and maintain its buildings and facilities appropriately.	Almost Certain	Moderate	High	The Council implements cleaning service commensurate to the services across other areas of the Shire and improves the level of service delivery in Derby

**CONSULTATION**

Tender T2-2023 (being the cleaning of Various Shire Office Buildings in Derby) was advertised in local and state wide forums, with the tender closing at 2.00pm on the 28 April 2023.

The advertised tender allowed for a minimum of 14 days for individuals or companies to submit tenders, which included the opportunity to view and inspect the buildings that formed the tender.

In developing the service levels and requirements which formed the basis of the tender, staff locally and the management teams were consulted.

There are two companies that responded to the tender, Skippers Cleaning and Six Icons Group

**COMMENT**

It is recommended the tender be awarded to the contractor that provides a best value for money approach, Skippers Cleaning.

The selection criteria for the tender were as follows:

<b>Criteria</b>	<b>%</b>
Company Track History and Record	20
Key Personal and Experience	20
Tenderer's Capacity and Resources	15
Demonstrated Understanding	15
Local Supplier Details	10
Quality Management System	10
Risk	10

The Shire administration consider Skippers Cleaning services capable of the work and recommend from the information provided that they be awarded the tender. Please find attached confidential prices and scores for Skippers Cleaning services.

### VOTING REQUIREMENT

Simple majority

### ATTACHMENTS

#### 1. Pricing and Scoring Sheet - T02-2023 - Confidential

#### OFFICER RECOMMENDATION

That Council:

1. Award Tender T2-2023 Cleaning of various Shire Office buildings to Skippers Cleaning;
2. Not award T2-2023 Cleaning of various Shire Office buildings to any party; and
3. Authorise the Chief Executive Officer to sign the contract.

#### COUNCIL RESOLUTION 57/23

Moved: Cr Peter McCumstie

Seconded: Cr Rowena Mouda

That Council:

1. Award Tender T2-2023 Cleaning of various Shire Office buildings to Skippers Cleaning; **or**  
~~Not award T2-2023 Cleaning of various Shire Office buildings to any party;~~
2. Authorise the Chief Executive Officer to sign the contract.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**

**Reason for Change:** Due to administration error the word "or" was missing from the original recommendation.



**12.3 AWARDING OF TENDER T3-2023 CLEANING OF SHIRE FACILITIES IN DERBY****File Number: 0450****Author: Steve Ross, Asset Coordinator****Responsible Officer: Wayne Neate, Director Technical and Development Services****Authority/Discretion: Executive****SUMMARY**

This item is for Council to consider the awarding of Tender T3-2023 which is the Cleaning of Various facilities in Derby to Skippers Cleaning.

**DISCLOSURE OF ANY INTEREST**

Nil by Author and Responsible Officer.

**BACKGROUND**

Cleaning of various facilities in Derby had been contracted to Topcat Cleaning, concluding at the end of June 2023. Topcat Cleaning did not provide pricing for the current tender.

**STATUTORY ENVIRONMENT**

**Local Government Act 1995** – 3.57 Tenders for the providing goods or services and

**Local Government (Functions and General) Regulations 1996** – Part 4 – Tenders for providing goods and services.

**POLICY IMPLICATIONS**

AF1 – Procurement of Goods and Services

AF33 – Regional Price Preference Policy

**FINANCIAL IMPLICATIONS**

- There is no significant change to the work included in the previous contract compared to the work which is included in this contract.
- The increased cost for this contract, we feel, is in line with the cost of staffing and increased costs associated with running a business in Derby, approx. 20%.

**STRATEGIC IMPLICATIONS**

GOAL	OUTCOME	STRATEGY
2. Community	2.2 Healthy Communities	2.1.2 Endeavour to provide safe, clean and well-lit streets and public spaces

**RISK MANAGEMENT CONSIDERATIONS**

<b>RISK</b>	<b>LIKELIHOOD</b>	<b>CONSEQUENCE</b>	<b>RISK ANALYSIS</b>	<b>MITIGATION</b>
<b>Property:</b> The Buildings and facilities are not maintained and cleaned to a reasonable standard, impacting on health concerns and useability	Almost Certain	Moderate	Medium	The Council implements cleaning service commensurate to the services across other areas of the Shire and improves the level of service delivery in Derby
<b>Reputation:</b> The Shire's reputation is diminished due to the inability to clean and maintain its buildings and facilities appropriately.	Almost Certain	Moderate	High	The Council implements cleaning service commensurate to the services across other areas of the Shire and improves the level of service delivery in Derby

**CONSULTATION**

Tender T3-2023 (being the cleaning of Various Shire Facilities in Derby) was advertised in local and state wide forums, with the tender closing at 2.00pm on the 28 April 2023.

The advertised tender allowed for a minimum of 14 days for individuals or companies to submit tenders, which included the opportunity to view and inspect the buildings that formed the tender.

In developing the service levels and requirements which formed the basis of the tender, staff locally and the management teams were consulted.

There are two companies that responded to the tender, Skippers Cleaning and Six Icons Group.

**COMMENT**

It is recommended the tender be awarded to the contractor that provides a best value for money approach, Skippers Cleaning.

The selection criteria for the tender were as follows:

Criteria	%
Company Track History and Record	20
Key Personal and Experience	20
Tenderer's Capacity and Resources	15
Demonstrated Understanding	15
Local Supplier Details	10
Quality Management System	10
Risk	10

The Shire administration consider Skippers Cleaning services capable of the work and recommend from the information provided that they be awarded the tender. Please find attached confidential prices and scores for Skippers Cleaning services.

### VOTING REQUIREMENT

Simple majority

### ATTACHMENTS

#### 1. Pricing and Scoring Sheet T03-2023 - Confidential

#### OFFICER RECOMMENDATION

That Council:

1. Award Tender T3-2023 Cleaning of Shire Facilities in Derby to Skippers Cleaning Services;
2. Not award Tender T3-2023 Cleaning of Shire Facilities in Derby to any party; and
3. Authorise the Chief Executive Officer to sign the contract.

#### RESOLUTION 58/23

Moved: Cr Andrew Twaddle

Seconded: Cr Keith Bedford

That Council:

1. Award Tender T3-2023 Cleaning of Shire Facilities in Derby to Skippers Cleaning Services;  
**or**  
~~Not award Tender T3-2023 Cleaning of Shire Facilities in Derby to any party; and~~
2. Authorise the Chief Executive Officer to sign the contract.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**

**Reason for Change:** Due to administration error the word “or” was missing from the original recommendation.

## **13 TECHNICAL SERVICES**

### **13.1 AWARDING OF TENDER T6-2023 FLOOD DAMAGE REINSTATEMENT AGRN 1044**

**File Number:** 0481

**Author:** Wayne Neate, Director Technical and Development Services

**Responsible Officer:** Amanda Dexter, Chief Executive Officer

**Authority/Discretion:** Executive

#### **SUMMARY**

This item is for Council to consider the awarding of Tender T06 -2023 being for the reinstatement of roads following event AGRN 1044. This tender will be split to try and complete the work by later this year to accommodate the potentially extended period of works for the reinstatement of AGRN 1044. The following tenderers are proposed to be awarded contracts to complete works in a timely fashion.

#### **DISCLOSURE OF ANY INTEREST**

Impartiality Interest – Wayne Neate – Director of Technical and Development Services.

Buckley's Earthworks and Paving sponsor the Derby Tigers Football Club of which Wayne is the President.

Nil Interest – Amanda Dexter – Chief Executive Officer.

#### **BACKGROUND**

On the 28th December 2022 through to January 4<sup>th</sup> 2023 ex-Tropical Cyclone Ellie paved an interesting path across the Shire of Derby/West Kimberley with a lot of rain occurring in the Fitzroy and Lennard river catchments. This event also led to what we now have experienced as the Fitzroy River Floods of January 2023. High rainfall numbers were received across the Shire of Derby/West Kimberley (the Shire) in mostly the central part of the Shire between the Gibb and Great Northern Highway and the southern road locations. Some areas receiving in excess of 400mm of rainfall over a few days with peaks of daily falls over 200mm.

Event AGRN 1044 Ex-TC Ellie was activated in mid-January following the damage to not only our road network but the State and Commonwealth road network. The Shire then sought the services of a suitably qualified engineering firm to undertake a damage pick up of the road network to ascertain the damage and work up a claim as per the Disaster Recovery Funding Arrangements of Western Australia (DRFAWA), Greenfields Technical Services (GTS) were selected to undertake the pickup and manage the opening up works. As soon as the roads were able to be driven on without causing further damage the Shire's grading contractors at the time undertook repairs of the network to make it "trafficable" for vehicles with this work still ongoing. As part of the opening up works Main Roads Western Australia have also provided assistance in assisting opening up some of our tourism hotspots along the Gibb River Road.

At this point we have not submitted a report to Department of Fire and Emergency Services (DFES) as we are hoping to complete the works as part of the Emergency Works provisions of the DRFAWA arrangements. The proposed works are several million dollars in value and we hope to

have confirmation of the extension to the time period for the Emergency Works which is normally three months after access is gained.

This tender is designed to provide company rates to then be project managed across the various work sites to get the best outcome for the Shire which does vary from previous tenders which have stipulated the set bill of quantities.

## STATUTORY ENVIRONMENT

**Local Government Act 1995** – 3.57 Tenders for the provision goods or services; and

**Local Government (Functions and General) Regulations 1996** – Part 4: Tenders for the provision of goods or services.

## POLICY IMPLICATIONS

- AF1 – Procurement of Goods and Services
- AF33 – Regional Price Preference Policy – two tenderers qualified for application of this policy.

## FINANCIAL IMPLICATIONS

The proposed current budget and previous budget made allowances for this work to occur which is for the reinstatement of many roads from event AGRN 1044. The Shire is liable for the first \$154,300 of the work which will run into several million dollars. The Administration are also working on a betterment package which will be presented to Council at a later date.

All costs in excess of the \$154,300 of reinstatement works are claimable back from the State government.

## STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
4. Environment	4.2 Liveable Communities	4.2.3 Encourage and facilitate the maintenance and development of infrastructure that connects our communities

## RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Reputation:</b> Reinstating the roads is a high priority and that should this not occur the reputation of the Shire can suffer	Possible	Moderate	Medium	Ensure as much work as possible be undertaken to complete works from past events in 2023 Calendar year

**CONSULTATION**

The tender was advertised state wide for a minimum of 14 days with submissions closing at 2:00pm, 17<sup>th</sup> May 2023. Documents were downloaded by several companies with three submissions received.

**COMMENT**

For the purposes of ensuring that reinstatement work is completed in an acceptable timeframe, the scope of works will be issued to maximise the completion of works across the network. Road where damage has occurred are as follows:

- Beefwood Park Road
- Calwynyardah Noonkanbah Road
- Camballin Myroodah Road
- Camballin Noonkanbah Road
- Camballin Road
- Cherrabun Road
- Dampier Downs Road
- Fossil Downs Road
- GNH Gee Gully Road
- Mowla Bluff Road
- Gogo Road
- Kalyeeda Road
- Langey Crossing Road
- Leopold Downs Road
- Manguel Creek Udialla Road
- Fairfield Leopold Road
- Mt Anderson Road
- Nerrima Road
- Quanbun Downs Road
- Windjana Access Road
- Bulka Road
- Cherrabun Road
- Christmas Creek Road
- Blina Road

Roads where Damage may have occurred but have not been inspected;

- Beverley Springs Road
- Milligiddee Access Road

- Blina Road
- Tablelands Road
- Mornington Road
- Marion Downs Road
- Milliewindie Road
- Mt Hart Road
- Silent Grove and Bell Gorge Road
- Windjana Access Road
- Lennard Gorge Road

It is recommended that the tender be awarded to the contractor that provides the best value for money, using the Approved Tender Scoring Criteria and can complete the work within a timeframe that will comply with the requirements of AGRN 1044. The Regional Price Preference Policy AF33 was applied to the prices submitted by the Derby based contractors as detailed in the table below.

The criteria and weighting for this tender were as follows:

Criteria	Weighting
Relevant Experience	15%
Key Personnel Skills and Experience	15%
Tender Resources	15%
Demonstrated Understanding	15%
Local Supplier Details	10%
Quality Management System	20%
Risk	10%

The three companies that provided a submission are as per the table below:

Contractor Name	Contractor N <sup>o</sup> .
Re Group Australia	C1
Buckley's Earthworks and Paving	C2
Young's Earthmoving Pty Ltd	C3

The scores for each contractor are contained within the confidential Attachment.

The contractors that have submitted tenders are currently all contracted to undertake works from previous Flood events or Maintenance Grading and all contractors are capable of undertaking the work to a good standard.

## VOTING REQUIREMENT

Simple majority

## ATTACHMENTS

### 1. Confidential Scoring - Confidential



**RESOLUTION 59/23****Moved: Cr Paul White****Seconded: Cr Geoff Davis****That Council;**

- 1. Award tender T6-2023 Flood Damage Re-instatement work for event AGRN 1044 to RE Group Australia, Buckley's Earthworks and Paving and Young's Earthmoving Pty Ltd; and**
- 2. Authorise the Chief Executive Officer to negotiate with each contractor in point 1 in regards to the roads required under each contract to ensure that the best outcome for the Shire of Derby/West Kimberley and the work is performed in a timely manner.**

**In Favour:** Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

**Against:** Nil

**CARRIED 7/0**

**14 DEVELOPMENT SERVICES****14.1 TOWN PLANNING GUIDELINE (TPG1) MINIMUM FINISHED FLOOR LEVEL FOR NEW BUILDINGS FITZROY CROSSING AND CAMBALLIN****File Number:** 4160 - Policy (Council)**Author:** Mark Chadwick, Manager of Development Services**Responsible Officer:** Wayne Neate, Director Technical and Development Services**Authority/Discretion:** Legislative**SUMMARY**

As a result of Ex-Tropical Cyclone Ellie and the associated flooding event on 2 January 2023 impacting on buildings adjacent the Fitzroy River, where river levels rose above the previous levels in 2002, changes to the existing Council Policy TP3 Minimum Finished Floor Level for New Buildings (Other Than Outbuildings) Fitzroy Crossing and Camballin is considered appropriate. The revision of the policy and the new guideline is intended to inform future development in the area and minimise future impacts to buildings caused by future flooding, in a way that is consistent with the existing legislative framework.

This report recommends revoking Policy TP3 and replacing it with a Town Planning Guideline (TPG1).

**DISCLOSURE OF ANY INTEREST**

Nil by Author and Responsible Officer.

**BACKGROUND**

The current Council Policy TP3 Minimum Finished Floor Level for New Buildings (Other than Outbuildings) Fitzroy Crossing and Camballin specifies floor levels that were in some cases exceeded in the January 2, 2023 flooding event. This resulted in unprecedented damage and disruptions to buildings and infrastructure within the Fitzroy River area, including at Camballin.

Council Policy TP3 was developed prior to the floods of 2002 and proved its worth in that flood event with several buildings built to that standard surviving the 2002 flood. Post the 2002 flood event the State Government developed Flood mapping which was then adopted by the Shire as the relevant referral point by which development occurred e.g. New Tarunda supermarket with all development applications being reviewed by the Department of the Water which would advise the finished floor level required. This process is the review post the January 2023 event.

**STATUTORY ENVIRONMENT**

The legislation relevant to making, revoking or amending local planning policies is *Part 2, Division 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015*. However, this does not apply in this instance as there is no provision in the existing *Shire of Derby West Kimberley Interim Development Order No.9 (IDO9)* for making, revoking or amending local planning policies. However, there is provision under section 4A vi of IDO9 to have due regard for flooding when considering an application under for developmental approval (ie. whether the land in which the application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bushfire or any other risk).

It should be noted the Shire's proposed new Local Planning Scheme No.9, once approved by the Minister for Planning, may be used to ensure there is a legal mechanism in place to help mitigate potential flood risk for any new development. This may be achieved by including special control area provisions or like mechanisms, and is yet to be determined by the Minister following the conclusion of the advertising period scheduled for 26 May 2023.

### POLICY IMPLICATIONS

The adoption of the existing Council Policy TP3 is not compliant with *Part 2, Division 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015* to support decisions made under the *Shire of Derby West Kimberley Local Interim Development Order No.9* is not possible because IDO9 is not a local planning scheme. As such the policy has no legal basis however its intent may be used as an operational guideline when considering development applications that are potentially affected by flooding.

### FINANCIAL IMPLICATIONS

There are no financial implications that impact on the Shire budget associated with this report that have not been accounted for. There may however be financial implications for those seeking development approval to ensure sufficient information regarding flood risk and mitigation measures is provided in support of their applications.

### STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
4. Environment	4.1 Our natural environment	4.2.3 Encourage and facilitate the maintenance and development of infrastructure that connects our communities

### RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Legal &amp; Compliance:</b> Approval of buildings that are at risk of flood impacts.	Unlikely	Severe	Low	Referral of potential flood impacted development applications to flood advisory agencies for review and comment prior to final determination by the Shire.

### CONSULTATION

Shire staff have consulted with the Supervising Engineer Surface Water Assessment and Flood Risk Science, Department of Water and Environmental Regulation, as the relevant agency responsible for providing flood mapping information and advice, as well as the Shire's Principal Planning

Officer and the Land Use Planning Division, Department of Planning, Lands, regarding local planning schemes and policy.

## COMMENT

To ensure adequate flood protection for future development in Fitzroy Crossing only at this point as the review of Camballin will take some further time, the Department of Water and Environmental Regulation previously recommended all future proposed habitable-type development located within the 100 year ARI floodplain should have a minimum building floor level of 0.50 metres above the 100 year ARI flood level based on the February 2002 flood. It is also recommended any proposed new development within the 100 year ARI floodplain be referred to the Department for review and comment prior to final determination by the Shire.

The flood levels encountered in January 2023 are significantly higher and revised mapping is available. A copy of the Community January 2023 Fitzroy River Flood Maps, is provided in Attachment 2.

Some information as provided by the Department of Water, Environment and Regulation which provides some reasoning to the potential levels that will be adopted by the State Government. The National Construction Code (NCC) requires the Finished Floor Level (FFL) of habitable areas to be constructed at least 500 millimetres (mm) above the flood planning level. While the 1% (1 in 100) Annual Exceedence Probability (AEP) event is often adopted for this purpose, decision makers can select a higher level of protection if desired. The department's preliminary analysis indicates the January 2023 flooding significantly exceeded 1 in 100 AEP and was likely somewhere between 1 in 200 AEP and 1 in 500 AEP. The 2023 January floods did exceed the 1% AEP including the NCC minimum requirements.

The state Government has looked at the various options which would be

- Option 1 - adopt the 1 in 100 AEP level plus the NCC 0.5 m FFL but this would be considered a significant risk and draw criticism to the Government as this was the current adopted level
- Option 2 - use the preliminary flood depth modelling from January 2023 as the baseline for the revised flood mapping and habitable floor levels were constructed 500mm above this level, the Government may be criticised for adopting an overly conservative position, noting the associated costs and implications for reconstruction and may set a difficult precedent with respect to both communities and private owners located in flood prone areas.
- Option 3 - consider retaining the 1% AEP as the baseline for flood planning levels, however the minimum FFL be increased above the minimum NCC requirement to align with the flood levels observed in the January 2023 flood event. In the majority of cases, this will equate to a new habitable floor level of 1% AEP plus approximately one metre, which is just above the January 2023 flood levels in most areas. This will provide greater confidence that adequate flood protection will continue to be provided into the future noting the likely impacts of climate change.

The Government is also looking at a detailed Flood study which will take approximately two years to complete. The preferred option for the State government is currently option 3. This is shown in the Attachment 3 which shows the pre 2023 advice and the post 2023 advice.

Given the legislative framework regarding local planning policy development mentioned previously above, it is considered that town planning guideline be introduced that replaces Council






Policy TP3 Minimum Finished Floor Level for New Buildings (Other Than Outbuildings) Fitzroy Crossing and Camballin. The effect of the new town planning guideline will ensure that applicants are, in the first instance encouraged to be directed to the relevant informing agency being the Department of Water and Environmental Regulation to establish appropriate designs for future development. A copy of the proposed Town Planning Guideline – (TPG1) Minimum Finished Floor Level for New Buildings Fitzroy Crossing, is provided as Attachment 3.

It will be recommended to firstly rescind the current policy TP3 and move to adopt the new Town Planning Guideline TPG3 using the same option as preferred by the State Government (option 3) which is the 1% AEP plus approximately one metre for the FFL.

### VOTING REQUIREMENT

Simple majority

### ATTACHMENTS

1. Community January 2023 Fitzroy River Flood Maps [↓](#) 
2. 2023 Flood Mapping [↓](#) 
3. NEW - Town Planning Guideline TPG1 Minimum Finished Floor Level for New Buildings in Fitzroy Crossing [↓](#) 
4. Depth Marking Curve [↓](#) 
5. Flood Mapping depths for Fitzroy Crossing [↓](#) 

*At 1:54 pm, Cr Keith Bedford left the meeting.*

### RESOLUTION 60/23

**Moved:** Cr Geoff Davis

**Seconded:** Cr Peter McCumstie

**That Council:**

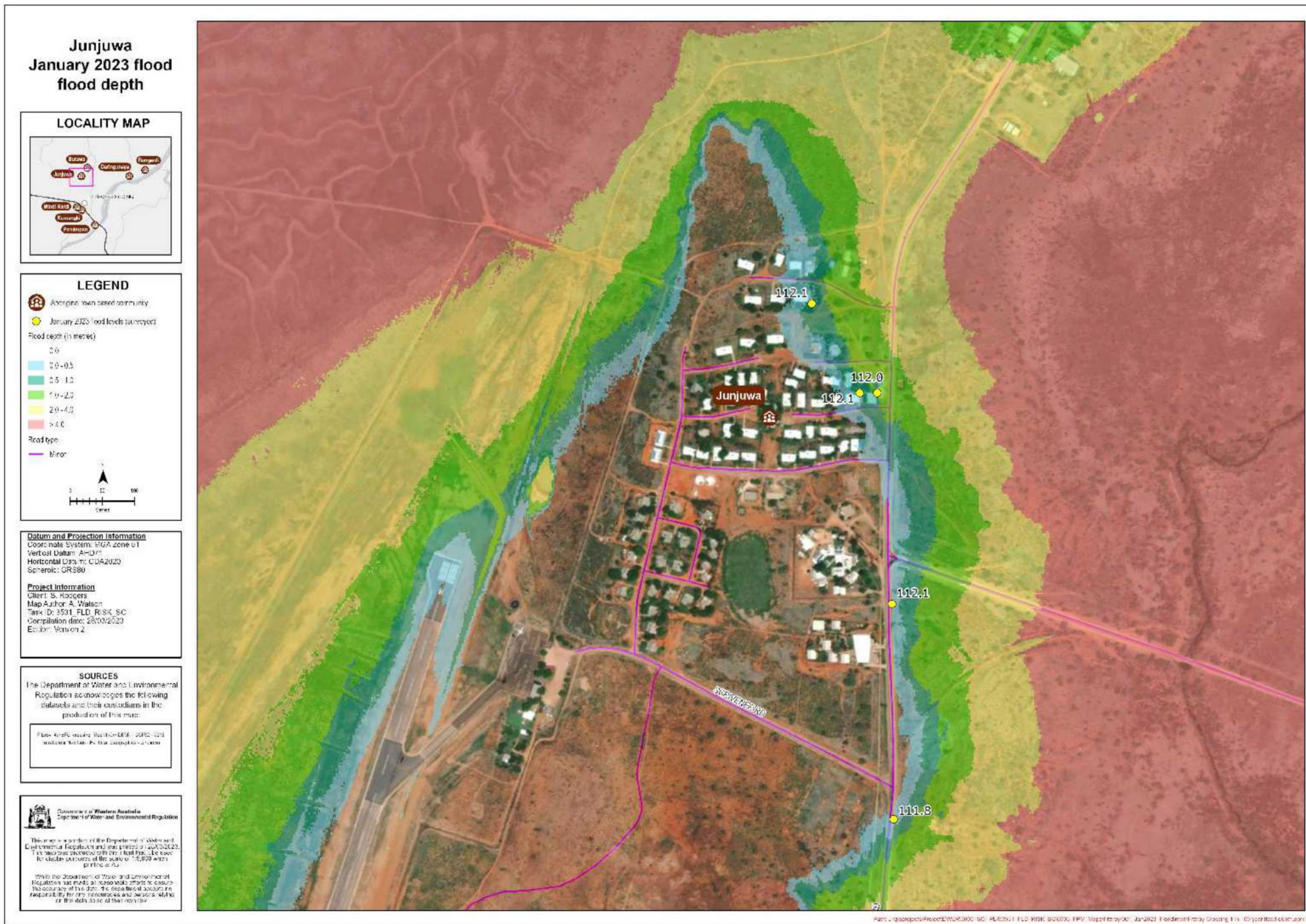
1. Revokes Council Policy (TP3) Minimum Finished Floor Level for New Buildings (Other Than Outbuildings) Fitzroy Crossing and Camballin;
2. Endorse the proposed new Town Planning Guideline entitled (TPG1) Minimum Finished Floor Level for New Buildings in Fitzroy Crossing as provided in Attachment 3; and
3. Refer all future development applications for the land located in designated flood prone areas in Fitzroy Crossing and Camballin to the Department of Water and Environmental Regulation for review and comment prior to final determination by the local government.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda and Peter McCumstie

Against: Nil

**CARRIED 6/0**

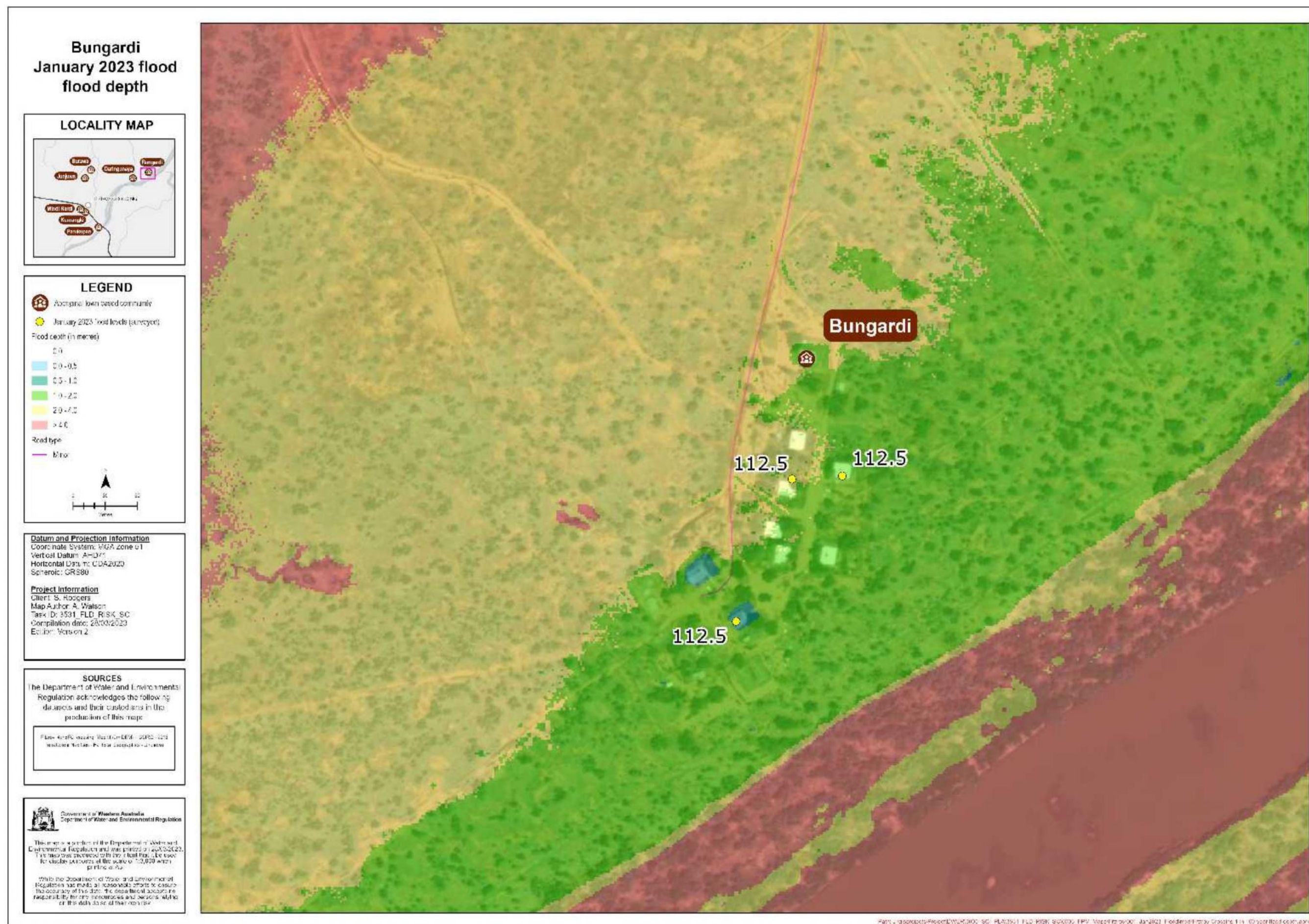




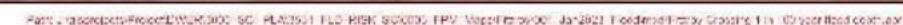




















## (TPG1) TOWN PLANNING GUIDELINE MINIMUM FLOOR LEVEL FOR NEW BUILDINGS FITZROY CROSSING

### 1. POLICY OBJECTIVE

To minimise the potential for flood damage to new buildings within Fitzroy Crossing and Camballin.

### 2. POLICY STATEMENT

This policy applies to all new buildings within Fitzroy Crossing and Camballin.

### 3. POLICY DEFINITIONS

**AHD** – The Australian Height Datum (AHD) is the official national vertical datum for Australia and refers to Australian Height Datum 1971 (AHD71; Australian mainland) and Australian Height Datum (Tasmania) 1983 (AHD-TAS83).

**AEP** – Annual Exceedance Probability (measured as a percentage) is a term used to describe how likely a flood is to occur in a given year.

**Habitable Building** means any structure or portion thereof used or designed for human habitation/occupancy.

**Non-Habitable Building** means any structure or portion thereof not used or designed for human habitation/occupancy.

### 4. FINISHED FLOOR LEVEL FOR NEW HABITABLE BUILDINGS ABOVE JANUARY 2023 FLOOD LEVELS.

4.1 The finished floor level for all habitable buildings shall be a minimum of 1 metre above the 1 in 100 AEP for Fitzroy Crossing Only - Flood levels shown in the following table for January 2023 event:

Location	Jan 23 flood level (m) AHD	Height (m) of Jan 23 flood above 1 in 100 AEP
Loambun / Parukupan	110.6	0.5
Fitzroy Lodge	111.0	0.6
Fitzroy Crossing town	111.7	1.0
Yurabi Road	111.7	0.6
Emmanuel Way	111.3	0.9
Skuthorpe Road (Crossing Inn)	111.8	0.9
Junjuwa	112.0	1.0
Burawa	112.1	1.0
Darlyngunaya	112.3	1.0
West of Crossing	112.0	0.9
Bungardi	112.5	1.0

## 5. FINISHED FLOOR LEVEL FOR NEW NON-HABITABLE BUILDINGS AND EXISTING APPROVED HABITABLE AND NON-HABITABLE BUILDINGS

5.1 The local government has discretion to consider a minimum finished floor level less than 1 metre above the 1 in 100 AEP as per attached mapping from Department of Water Environment and Regulation under the following circumstances:

- a) The proposed development is a minor extension to an existing building or structure already approved and constructed; or
- b) The non habitable building or structure is ancillary development to a dwelling on the same lot inclusive of a carport, garage, patio, pergola, gazebo, and outbuilding; or
- c) The local government considers fill is impractical and/or will have a negative impact on an established streetscape.

## 6. REFERRALS TO THE DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION

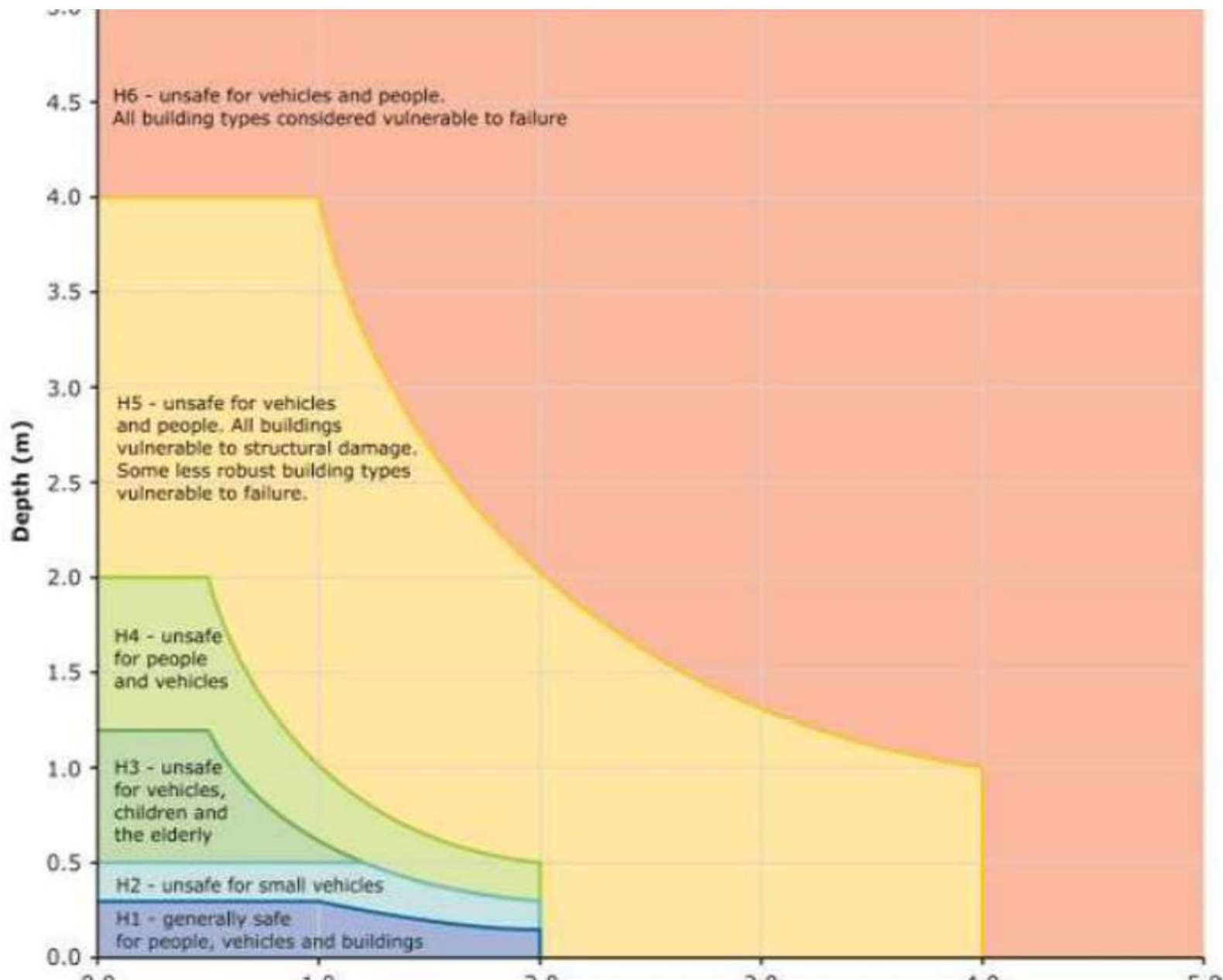
6.1 It is strongly recommended all landowners/applicants undertake pre-consultation with the Department of Water and Environmental Regulation to determine and confirm the final finished floor levels required to mitigate any future potential flood risk and prepare and submit plans in support of their development applications that reflect the advice and recommendations received from the Department. A copy of advice received from the Department should accompany the development application submitted to the local government as this may save considerable time processing the application.

6.2 Where a landowner/applicant does not undertake pre-consultation with the Department of Water and Environmental Regulation or provide evidence of pre-consultation, the local government will refer the application to the Department for review and comment.

6.3 The local government will have due regard to the advice and recommendations received from the Department when determining development applications.

### Policy Details

<b>Original Adoption Date:</b>	29 July 1998	<b>Review Frequency (Annual/Bi-ennial):</b>	6 April 2023
		<b>Next Review Due:</b>	April 2025
<b>Policy Implementing Officer or Team:</b>	Manager Development Services	<b>Policy Reviewer:</b>	Manager Development Services
<b>Legislative Head of Power (Act, Regulation, or Local Law):</b>	Local Government Act 1995		
<b>Related Documents (other Policies, Operational Procedures, Delegations, etc.):</b>	Department of Water and Environmental Regulation – Fitzroy Crossing Flood Management Strategy – Flood Level Maps January 2023		
<b>Version Control Council Meeting Review Details:</b>			
<b>Review #:</b>	<b>Council Meeting Date:</b>	<b>Item/Resolution#:</b>	
1.	27 April 2023	xxxxx	





**Fitzroy Crossing  
townsite**

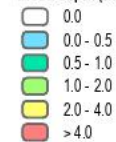
Estimated January 2023  
flood depths

## LOCALITY MAP



## LEGEND

Flood depth (in metres)



Datum and Projection Information

**Datum and Projection Information**  
Coordinate System: GDA 1994 MGA Zone 51  
Vertical Datum: AHD71  
Horizontal Datum: GDA94  
Spheroid: GRS80

### Project Information

Client: Shire of Derby-WestKimberley  
Map Author: A. Watson  
Task ID: 3531\_FLD\_RISK\_SC  
Compilation date: 25/01/2023  
Edition: Version 1

## SOURCES

**SOURCES**  
The Department of Water and Environmental Regulation acknowledges the following datasets and their custodians in the production of this map:

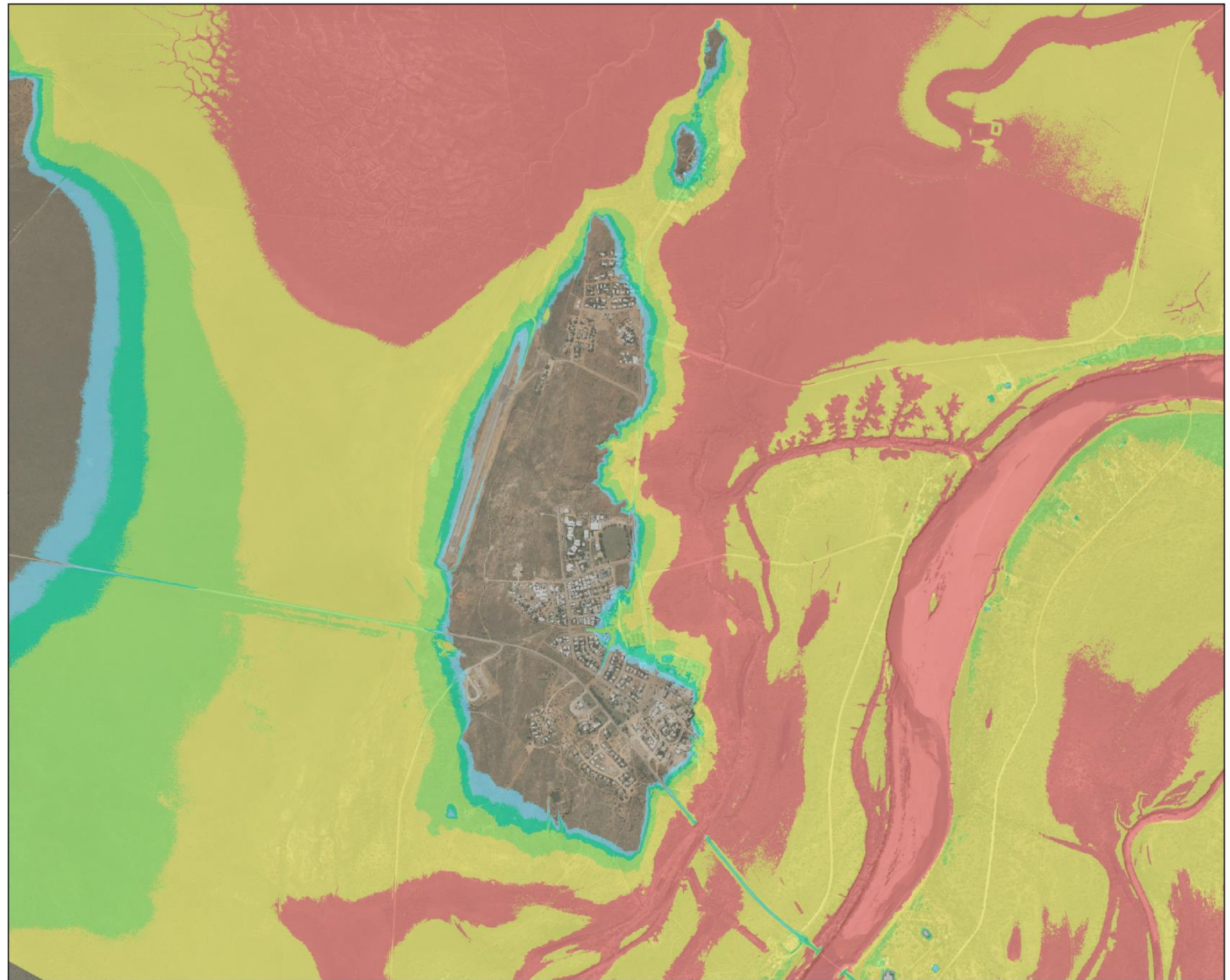
Fibroy\_4andFC\_crossing\_filed(16m DEM)-CSRD-2016  
 Fibroy\_Crossing\_Trapzoid\_10cm - 1.4.2016 - 2024



Government of Western Australia  
Department of Water and Environmental Regulation

This map is a product of the Department of Water and Environmental Regulation and was printed on 25/01/2023. This map was produced with the intent that it be used for display purposes at the scale of 1:20,000 when printing at A3.

While the Department of Water and Environmental Regulation has made all reasonable efforts to ensure the accuracy of this data, the department accepts no responsibility for any inaccuracies and persons relying on this data do so at their own risk.



Path: J:\gisprojects\Project\DWER\3000\_SCI\_PLA\3531\_FLD\_RISK\_SCI\0005\_FPM\_Maps\Fitzroy\001\_Jan2023\_Flood\mxd\Fitzroy Crossing Jan 2023 flood depth estimates.mxd

*At 1:57 pm, Cr Keith Bedford returned to the meeting.*

## **14.2 TEMPORARY CONCRETE BATCHING PLANT - LOT 313, CROWN RESERVE 35167, FITZROY CROSSING**

**File Number:** 7020  
**Author:** Mark Chadwick, Manager of Development Services  
**Responsible Officer:** Wayne Neate, Director Technical and Development Services  
**Applicant:** Main Roads Western Australia  
**Owner:** State of Western Australia  
**Proposal:** Temporary Concrete Batching Plant  
**Location:** Lot 313, Crown Reserve 35167  
**Authority/Discretion:** Information

### **SUMMARY**

This agenda report seeks Council's endorsement of a proposal to construct and operate a temporary concrete batching plant on Lot 313 on Deposited Plan 220931 being portion of Crown Reserve 35167 Great Northern Highway, Fitzroy Crossing to support flood recovery works by Main Roads WA.

### **DISCLOSURE OF ANY INTEREST**

Nil by Author or Responsible Officer.

### **BACKGROUND**

Crown Reserve 35167 Great Northern Highway, Fitzroy Crossing is currently vested with Bunuba Operations Aboriginal Corporation (BOAC), an entity of Bunuba Dawangarri Aboriginal Corporation (BDAC) which has been set aside under the *Land Administration Act 1997* to be developed for the 'use and benefit of Aboriginal inhabitants.' BOAC have power to lease the land subject to approval from the Minister for Lands.

The Fitzroy Bridge Alliance (FBA), in partnership with Main Roads WA, is seeking to lease the land from BDAC for the specific purpose of constructing and using a temporary concrete batching plant on 'Agreed Service' terms to support flood recovery works in the immediate locality.

The FBA has advised the Shire of the authorisation obtained from BOAC and has submitted relevant information regarding the proposed development to the Shire for its consideration and endorsement. A copy of the authorisation letter is provided as Attachment 1 and supporting plans and information are provided in Attachments 2 to 5 of this report.

### **STATUTORY ENVIRONMENT**

The legislation of direct relevance to this matter from the Shire's perspective is the Planning and Development Act 2005 (i.e. the 'Act') and the Shire of Derby/West Kimberley Local Interim Development Order No.9.

The relevant section of the 'Act' is as follows;

"Section 6. Act does not interfere with public works

- (1) *Subject to subsections (2) to (4), nothing in this Act interferes with the right of the Crown, or the Governor, or a public authority, or a local government:*
- a) to undertake, construct or provide any public work; and*
  - b) to take land for the purposes of that public work.*
- (2) *Rights referred to in subsection (1) are to be exercised having due regard to —*
- a) the purpose and intent of any planning scheme that has effect in the locality where, and at the time when, the right is exercised; and*
  - b) the orderly and proper planning, and the preservation of the amenity, of that locality at that time; and*
  - c) any advice provided by the responsible authority in the course of the consultation required under subsection (3) in respect of the exercise of the right.*
- (3) *At the time when a proposal for any public work, or for the taking of land for a public work, is being formulated, the responsible authority is to be consulted as to whether the undertaking, construction or provision of, or the taking of land for, the public work will be consistent with the matters referred to in subsection (2)(a) and (b).*

The relevant sections of Local Interim Development Order No.9 are as follows:

*Clause 5 - DEVELOPMENT BY PUBLIC AUTHORITY*

- a) Any public authority intending to carry out development (other than permitted development) within the area covered by this Order is required to consult the Local Government in writing and to supply such information as may be necessary to explain the proposal.*
- b) The development shall not be commenced until the Local Government advises either that the development is in conformity with the proposed Local Planning Scheme or can be co-ordinated with it; but before so advising the Local Government may require modification to the development.*
- c) In the event of the modification not being accepted to the public authority, the development shall not be commenced but the matter shall be referred to the Minister for determination by the Governor as provided by section 111(2), Division 3, Part 6 of the Planning and Development Act 2005.*

*Clause 6 - PERMITTED DEVELOPMENT*

*The following classes of development do not require approval under this Order and are subject only to Local Government by-laws and other provisions of law:*

- (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.*

The Shire Administration has considered the proposed development in the context of all relevant requirements prescribed in the Act, Local Interim Development Order No.9 and the Shire's proposed new Local Planning Scheme No.9 and is satisfied it is capable of meeting the objectives and standards of the Shire's proposed Local Planning Scheme No.9 as it applies specifically to the land in question and can therefore be implemented in a proper and orderly manner subject to compliance with a number of conditions.

**POLICY IMPLICATIONS**

State Planning Policy 3.7 - Planning in Bushfire Prone Areas and the associated Guidelines.

**FINANCIAL IMPLICATIONS**

All administrative costs associated with processing the request are provided for in Council's annual budget. All costs associated with progressing the proposed development, including returning the land to its pre-developed state will be met by the proponent.

**STRATEGIC IMPLICATIONS**

GOAL	OUR PRIORITIES	WE WILL
3. Economy	3.1 Industry and business development and growth	3.1.1 Encourage and support appropriate and sustainable investment

**RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Legal &amp; Compliance:</b> Potential for impacts from dust and noise emissions to the environment	Likely	Minor	Low	The proposal is required to be licenced by DWER to ensure effective mitigation measures for potential emissions
<b>Business Interruption:</b> Potential for concrete batching not meeting construction business demands	Possible	Major	High	The proposal addresses the demand for concrete batching in the incident recovery

**CONSULTATION**

Consultation has occurred with the Shire's Director Infrastructure and Development Services, Town Planning Consultant and correspondence between the leaseholder and the proponent Fitzroy Bridge Alliance.

**COMMENT**

The Shire has advised FBA of the relevant requirements to satisfy the relevant planning requirements. As the land has been designated as being bushfire prone, the bushfire risk needs to be identified and mitigated by way of the relevant investigations and plans prepared pursuant to State Planning Policy 3.7 and the associated guidelines. FBA have advised the Shire of its proposed bushfire mitigation and management measures, the specific details of which will need to be further assessed and endorsed.

The proponent has also contacted the Department of Water and Environmental Regulation (DWER) to obtain confirmation and will provide the Shire with evidence DWER are satisfied any future potential flood risk can be suitably mitigated. A separate Council agenda report has been



prepared that provides finished floor level guidance based on recent advice also received from DWER which will likely impact this proposal.

Access to/from the proposed development will be from Great Northern Highway via an existing unsealed battleaxe leg associated with Lot 156 located immediately south of Crown Reserve 35167 which is Vacant Crown Land owned by the State of Western Australia and managed by the Department of Planning, Lands and Heritage (DPLH). It is understood FBA is currently seeking approval from DPLH to access the proposed development via the existing battleaxe leg associated with Lot 156 with written confirmation expected to be provided in due course.

Whilst temporary buildings are being proposed, FBA advises all waste material, including grey water, will be captured and stored in tanks and removed at regular intervals. Council should note a separate approval will be required from Department of Health Western Australia for all wastewater disposal infrastructure proposed to be installed.

This proposal is being referred to Council for consideration and endorsement under section 6 of the Act and clauses 5 and 6 of the Shire of Derby/West Kimberley Local Interim Development Order No.9 subject to a range of conditions to ensure the development proceeds in a proper and orderly manner. Council should note FBA have advised it will provide a survey condition report of the relevant portion of Crown Reserve 35167 prior to commencing works and returning the land to its pre-approval condition at the end of the agreed lease term.

## VOTING REQUIREMENT

Simple majority

## ATTACHMENTS

1. Authorisation of land use [!\[\]\(e40bb48ad1470e3a14017c64c5673877\_img.jpg\) !\[\]\(de28875f44a359ca6d30bbb1d9f6cdbd\_img.jpg\)](#)
2. Fitzroy Bridge Alliance Proposal [!\[\]\(2d84cfc19096ca16fe323c530253896b\_img.jpg\) !\[\]\(6b933a0050dc38b6c79d63f70c853f8d\_img.jpg\)](#)
3. Concrete Batching Plant General Layout [!\[\]\(54cb7c61ff385eb40d6f6ccc42e89c3b\_img.jpg\) !\[\]\(79e077332ddce0f8ffe117bdcd7a7140\_img.jpg\)](#)
4. Mindi Rardi Reserve Lease Layout [!\[\]\(03441cacddac692482c661c224262807\_img.jpg\) !\[\]\(9add20f94275ca1e08236b88eada6aba\_img.jpg\)](#)
5. Concrete Batching Plant Site Layout [!\[\]\(f78244f027e63cd024ff37ae39dcfe45\_img.jpg\) !\[\]\(7b8ae1b5346fb55406b47f5aa1a80d4b\_img.jpg\)](#)

## RESOLUTION 61/23

Moved: Cr Peter McCumstie

Seconded: Cr Geoff Davis

That Council, pursuant to section 6 of the *Planning and Development Act 2005* and clauses 5 and 6 of the Shire of Derby/West Kimberley Local Interim Development Order No.9, support and endorse the construction and use of a temporary concrete batching plant on Lot 313 on Deposited Plan 220931 being portion of Crown Reserve 35167 Great Northern Highway, Fitzroy Crossing by Main Roads WA and its authorised contractors subject to the following conditions and advice notes:

### Conditions:

1. This approval is valid for a period of two (2) years only unless otherwise approved by the local government.
2. Prior to the commencement of development written confirmation of the Minister for Lands' approval to lease the relevant portion of the land the subject of this approval shall be provided to the local government's Chief Executive Officer.
3. Prior to the commencement of development written confirmation of the Department of

Planning, Lands and Heritage's approval to access the proposed development via the existing unsealed battleaxe leg associated with Lot 156 on Deposited Plan 213655 shall be provided to the local government's Chief Executive Officer.

4. A Bush Fire Management Plan prepared pursuant to the specific requirements of State Policy 3.7 entitled 'Planning in Bushfire Prone Areas' and the associated guidelines shall be prepared and submitted to the local government for consideration and endorsement by the local government's Chief Executive Officer prior to occupation and use of the proposed development.
5. All buildings and other associated improvements shall be constructed in accordance with the final finished floor levels recommended by the Department of Water and Environmental Regulation with details to be confirmed in writing, including the final site development plans, and submitted to the local government for endorsement by the local government's Chief Executive Officer prior to the commencement of development.
6. A suitable on-site effluent disposal system, as determined by the local government's Environmental Health Officer or the Executive Director of Public Health, shall be provided prior to occupation and use of the proposed development.
7. All stormwater drainage associated with the proposed development shall be managed and disposed on site to the specifications and satisfaction of the local government's Chief Executive Officer in consultation with the local government's Director Technical and Development Services.
8. All solid waste generated by the proposed development shall be disposed on a regular basis to the specifications and satisfaction of the local government's Chief Executive Officer in consultation with the local government's Environmental Health Officer.
9. At the end of the approval term all improvements on the land shall be removed and the land reinstated to its pre-development condition insofar as practicable within 90 days to the satisfaction of the local government's Chief Executive Officer unless otherwise approved by the local government. A pre and post-development survey shall be prepared and submitted to the local government by the proponent at its own cost to help satisfy the specific requirements of this condition.

**Advice Notes:**

1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant and landowner and not the local government to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the local government's attention.
2. This approval by the Shire of Derby / West Kimberley is granted pursuant to section 6 of the *Planning and Development Act 2005* and clauses 5 and 6 of the Shire of Derby/West Kimberley Local Interim Development Order No.9. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. The applicant/landowner is advised the land the subject of this approval is identified in the Aboriginal Heritage Inquiry System as registered Aboriginal Sites 429 and 12233

known as 'Kurnangki Burial' and 'Sacred Store and Site' respectively. Any future development on the land must have due regard for and be undertaken in accordance with the specific requirements of the *Aboriginal Heritage Act 1972*.

4. An 'Application to Construct or Install an Apparatus for the Treatment of Sewage' pursuant to the specific requirements of the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* must be prepared and submitted to the local government or the Executive Director of Public Health for consideration and determination prior to preparation and lodgement of a building permit application for the structures they will serve.
5. In accordance with the *Building Act 2011* and *Building Regulations 2012*, a building permit application must be submitted to and approved by the local government's Building Surveyor prior to the commencement of any construction or earthworks on the land.
6. The proposed development is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the local government with the building permit application.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**



ABN: 80 365 218 271  
PO Box 264  
Fitzroy Crossing WA 6765

21 April 2023

By Email:

Mr Greg Mengel  
Construction Manager  
Fitzroy Bridge Alliance

**Subject: Vacant Crown Land (no. 35167) currently vested with Bunuba Operations Aboriginal Corporation (an entity of Bunuba Dawangarri Aboriginal Corporation)**

As CEO, I thank you for meeting with Bunuba Dawangarri Aboriginal Corporation (BDAC) 21 April to seek approval to use and lease the land, known as Crown Reserve 35167, owned by the State of Western Australia, and set aside to be developed for the 'use and benefit of Aboriginal inhabitants.' The land area is located on the southern side of the Great Northern Highway in Fitzroy Crossing, which falls within the Shire of Derby / West Kimberley.

The land has been vested with BOAC since 2004/05 and we hold an exclusive management order for Crown Reserve 35167 and are responsible for all the land comprising the Reserve and have power to lease for any term subject to approval from the Minister for Lands.

The Fitzroy Bridge Alliance (through Georgiou) seeks to lease the said land for the specific purpose of a concrete batching plant, on 'Agreed Service' terms between the BDAC and Fitzroy Bridge Alliance. We request these lease terms and rates be negotiated at your earliest convenience, please.

As an act of goodwill and good faith in progressing the necessary works, the BDAC approves the Fitzroy Bridge Alliance to commence their operations at the said location.

Can you please indicate to the BDAC in writing your intention of the schedule of works, the agreed lease rates for land use, and your commencement date. Also note, in authorising use of the lands and to progress your works, the BDAC request you ensure appropriate statutory authorities and bodies are abreast of your intentions, and in receipt of appropriate approvals.

Finally, the condition of use of the said land requires both parties to agree the land is reinstated back to its natural state.

On behalf of BDAC, I trust these conditions are acceptable and suitable to your work schedule and should you require further information, I can be contacted on 0499 530 753.

Your sincerely,

Tony Walley  
CEO  
Bunuba Dawangarri Aboriginal Corporation





28 April 2023

Mr Wayne Neate  
Director of Technical and Development Services  
Shire of Derby and West Kimberley

**Subject: Batch Plant set-up proposal for Lot 1, known as Crown Reserve 35167**

In response to your email dated 31 March 2023 regarding the process required to temporary establish Lot 1, known as Crown Reserve 35167, as a concrete batch plant, please find our proposal below which is in response to your dot point 4: *Development approval is not required from the Shire to develop/use the land to facilitate construction of the proposed new bridge given the work is being done by an agent acting on behalf of Main Roads WA (i.e. the works are classified as public works which are exempt from the need for development approval under section 6 of the Planning and Development Act 2005 and clauses 5 and 6 of the Shire of Derby/West Kimberley Interim Development Order No.9 (IDO9)). There are however obligations on the developer to consult with the Shire in writing and supply such information as may be necessary to explain the proposal.*

**Proposal**

1. Batch plant will be a mobile plant setup based on 50m<sup>3</sup>/hr maximum production rate. It will more typically operate at a 25m<sup>3</sup> / hr capacity.
2. Batch plant will be constructed as per provided layout drawings and is generally designed as a plug and play unit to minimise site install hours
3. Batch plant components are certified and are rated to withstand potential cyclone events. Electrical certification will be provided at the end of the install.
4. The Batch plant meets modern day environmental controls through use of enclosed silos (2 off), enclosed chutes, wash pit bays and dust control measures through introduction of stockpile dust suppression. The batch plant has been designed in compliance with WA Environmental regulations associated with concrete batch plant operations.
5. The site layout is a proven design that caters for turning circles, Safety in design ensuring that the plant will be used in a safe manner.
6. Batch plant will be serviced by a crew of 5 to 6 men.
7. Batch plant operating hours will be typically 11 hours days starting at 6am, 6.5day working week, however there will large deck and pilecap pours that will have to commence during night shift.
8. Clearing of the site is anticipated to start 8 May, subject to all approvals.
9. Anticipated operational dates of the plant are 15 May 2023 to end February 2024.
10. At the end of the project and if requested, the Alliance will be prepared to leave part of the established infrastructure behind (e.g. aggregate silos and wash down bays) to assist with formation of a future batch plant.

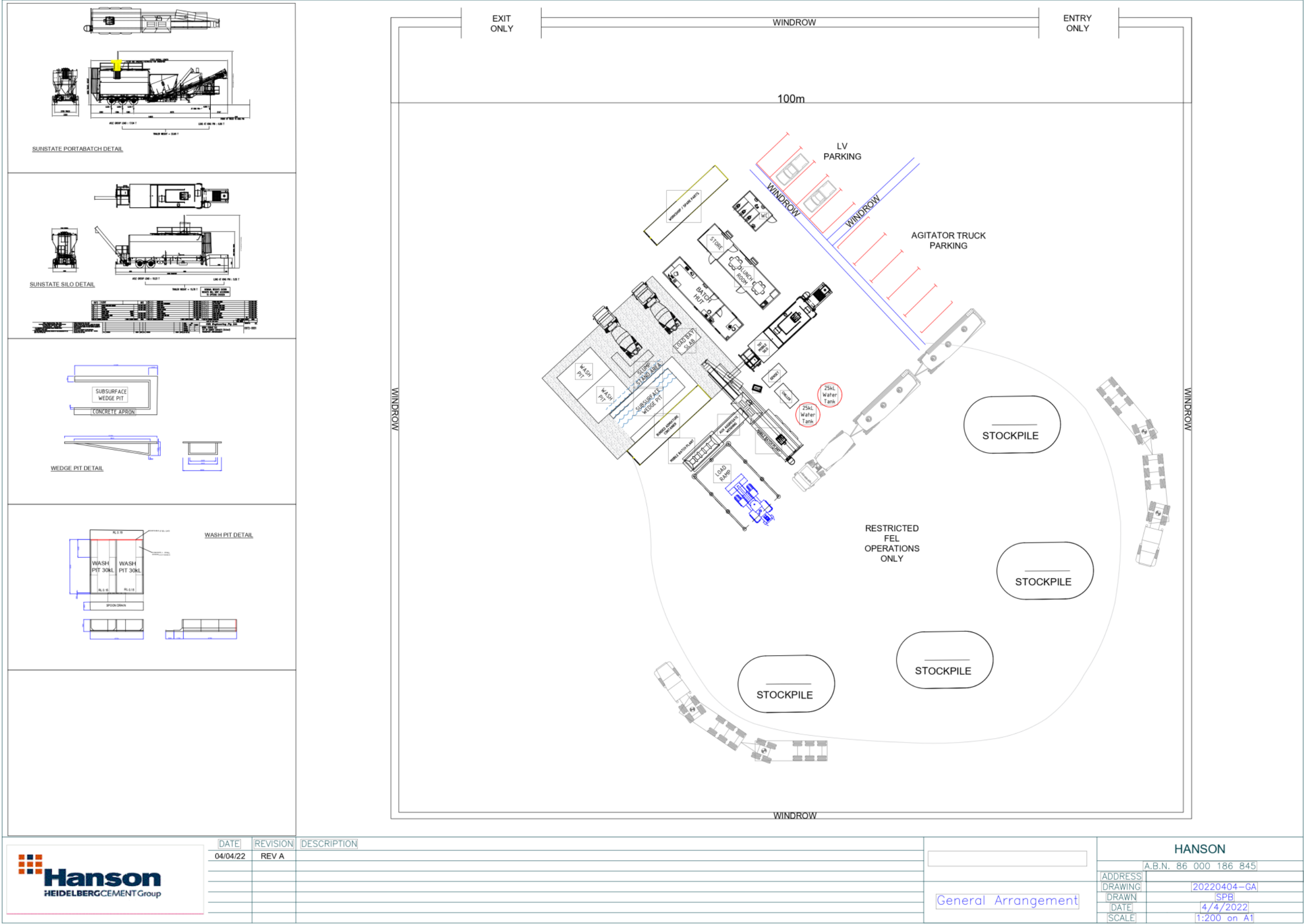
A site layout provided by our sub-contractor has been attached to the email sent with this letter.

Attached to the email, is also a letter from Bunuba Dawangarri Aboriginal Corporation in response to the following point raised in your email dated 31 March: *No one else can develop/use Crown Reserve 35167 without obtaining approval from the current authorised management body Bunuba Incorporated. Technically the land can only be developed for its designated purpose unless otherwise approved by the Minister for Lands.*

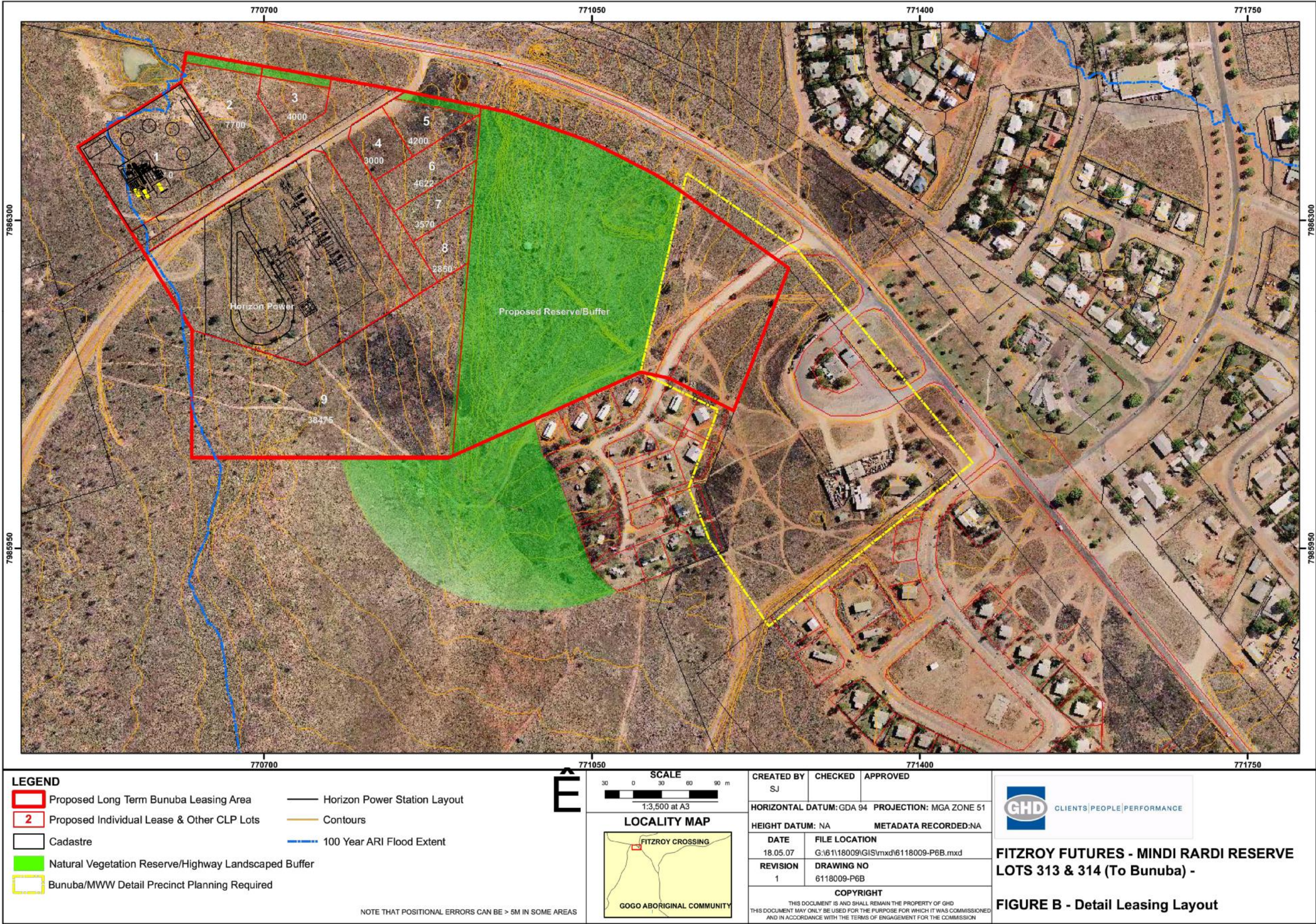
If you require further information on our proposal, can you please inform Fiona Bell, Community and Stakeholder Engagement Manager for the Fitzroy Bridge Alliance as soon as practicable.

Your sincerely,

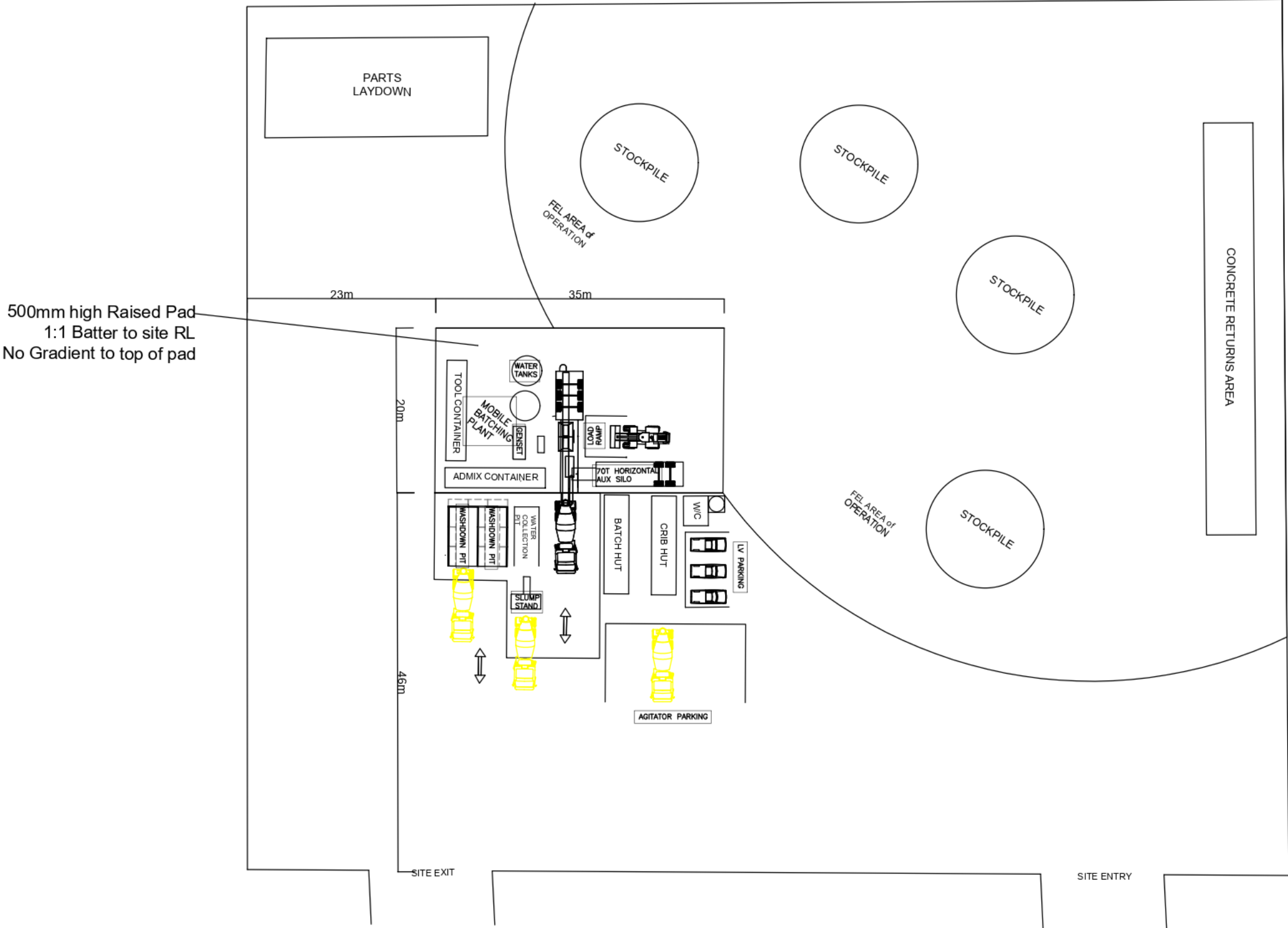
Will Telfer  
Alliance Director  
Fitzroy Bridge Alliance












				PROJECT: PROPOSED FITZROY RIVER CROSSING CONCRETE PLANT				ABN: [blank] JOB No: [blank]			
TITLE: GENERAL ARRANGEMENT - OPTION 1				SCALE: 1:500 on A3				DATE: 30th April 2023			
DRAWN: SB				DATE: 30/04/23				DRG No: 20230430 - GA			
REV: B				DESCRIPTION: ISSUED FOR CLIENT SUBMISSION				REV: [blank]			

At 1:59 pm, Cr Geoff Haerewa left the meeting.

Cr Peter McCumstie (Deputy Shire President) assumed chair at 1:59pm.

#### **14.3 REQUEST TO CLOSE HOLLAND STREET, DERBY AND TO AMALGAMATE WITH ADJOINING LAND**

**File Number:** 8145

**Author:** Mark Chadwick, Manager of Development Services

**Responsible Officer:** Wayne Neate, Director Technical and Development Services

**Authority/Discretion:** Legislative

#### **SUMMARY**

This report recommends that Council resolve to request the Hon. Minister for Lands' final approval to the permanent closure of the southern 2.378 hectare unconstructed portion of the Holland Street road reserve between Derby Highway and Fitzroy Street, Derby pursuant to section 58 of the *Land Administration Act 1997* and associated regulations with the land comprising the closed road reserve to be offered to all immediately adjoining landowners for acquisition and amalgamation with their properties in equal portions.

#### **DISCLOSURE OF ANY INTEREST**

Nil by author; Nil by Responsible Officer.

#### **BACKGROUND**

At its Ordinary Meeting on 25 August 2022 Council resolved to initiate the process under section 58 of the *Land Administration Act 1997* and associated regulations to permanently close the southern 2.378 hectare unconstructed portion of the Holland Street road reserve between Derby Highway and Fitzroy Street, Derby with the land comprising the closed road reserve to be offered to all immediately adjoining landowners for acquisition and amalgamation with their properties in equal portions.

Council's resolution in this matter was conditional upon all immediately adjoining landowners providing written confirmation to the Shire of their agreement to indemnify the Shire and the State of Western Australia of any and all third party costs and claims that may be triggered by the road closure process.

A copy of letters received from all immediately adjoining landowners confirming their agreement to the proposal and willingness to indemnify the Shire and the State of Western Australia against all costs and claims is provided in Attachment 1.

Public advertising of the proposal has now been completed in accordance with the procedural requirements of the *Land Administration Act 1997* and associated regulations for the minimum required period of thirty five (35) days. The advertising process included publication of a notice in the Broome Advertiser newspaper, correspondence to all relevant government agencies and essential service providers and display of the relevant report and plans at the Shire administration centre and on the Shire's website.

At the close of public advertising a total of two (2) submissions were received (see Attachment 2), both of which raised no objections to the proposal but raised comments regarding:

- a) the need to protect existing electricity supply infrastructure via easements (Submitter: Horizon Power); and
- b) additional potential benefit and risk including the need for a consistent agreement with all relevant landowners that contains suitable terms and conditions to ensure the timely acquisition and transfer of those portions of the closed road reserve to be amalgamated with their properties (Submitter: Mr Richard Hosking – Local Resident).



*Plan 1 - Proposed Holland Street Road Closure Area (Approx. 2.378 hectares)*

## STATUTORY ENVIRONMENT

***Land Administration Act 1997*** – Section 58 – Closing Roads

***Land Administration Regulations 1998*** – Regulation 9 - Local government request to close road permanently (Act s. 58(2)), requirements for.

## POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

Permanently closing the relevant portion of the Holland Street road reserve will remove the need for the Shire to maintain the land as well as construct and maintain a new road carriageway and associated drainage infrastructure within the road reserve area which is currently under the care, control and management of the Shire.

Following final approval and completion of the road closure process (assumed) the properties affected will increase in size and are therefore expected to generate a modest increase in annual rate revenue for the Shire following their revaluation by Landgate for rating and taxing purposes in accordance with the *Valuation of Land Act 1978*.

It is understood the Shire has agreed to meet all administrative costs associated with progressing the proposed road closure in accordance with the procedural requirements of the *Land Administration Act 1997* using funds allocated in its annual budget.

All costs associated with finalising the proposal, including survey works and land acquisition costs, will be borne by the individual landowners who stand to benefit if the Minister for Lands grants final approval.

### STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.1 Collaboration and partnership	1.1.1 Engage with our communities
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.4 Attract and effectively use resources to meet community needs
1. Leadership and Governance	1.3 Effective Communication	1.3.3 Use multiple channels to distribute information about services, programs, places and spaces

### RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Legal &amp; Compliance:</b> Procedural requirements of section 58 of the <i>Land Administration Act 1997</i> and regulation 9 of the <i>Land Administration Regulations 1998</i> .	Unlikely	Minor	Low	Attention to process and procedure, awareness of legislation and vigilance.

### CONSULTATION

As stated previously above, public advertising has been completed in accordance with the procedural requirements of the *Land Administration Act 1997* and associated regulations for the minimum required period of thirty five (35) days with two (2) submissions received, none of which raised any objections.

### COMMENT

In relation to the two (2) submissions received during public advertising, Council should note the following key points:

- Horizon Power

Horizon Power confirmed it has some existing electricity supply infrastructure at the western end of the Holland Street road reserve at its intersection with Derby Highway that will need to be contained within a suitable easement/s to provide a legal right of access to the infrastructure for ongoing maintenance and repair purposes if the road reserve is closed and the land amalgamated into immediately adjoining privately owned properties. Horizon Power also made reference to existing electricity supply infrastructure further east however it is not located within that portion of the Holland Street road reserve area proposed to be closed and does not therefore require or justify the creation of an easement as part of the road closure process.

Horizon Power's advice in this matter as it applies specifically to the Holland Street road reserve is considered to be fair and reasonable given its responsibilities with respect to the existing electricity supply infrastructure in the road reserve and the need to ensure legal rights of access are provided and maintained in perpetuity. It is therefore expected the Department of Planning, Lands and Heritage will make arrangements to provide for the creation of the required easement/s if the Minister for Land's grants final approval in due course.

- Mr Richard Hosking – Local Resident

Mr Hosking confirmed he uses that portion of the Holland Street road reserve proposed to be closed for recreational purposes with his family (i.e. walking) and acknowledged the benefits of proceeding with the proposed road closure as identified in the documentation made available for review and comment during public advertising.

He did however point out:

- a) the additional rates income likely to be received by the Shire if the road reserve is ultimately closed and queried why that was not considered and quantified in any way to further justify the proposal;
- b) the benefit that will flow to all affected adjoining landowners in terms of the additional land to amalgamated with their properties following completion of the road closure process;
- c) the lack of detailed information regarding contingencies and risks associated with the road closure process; and
- d) the need for a consistent agreement with all relevant landowners, including suitable terms and conditions to ensure the timely acquisition and transfer of those portions of the closed road reserve to be amalgamated with their properties.

In relation to point a) above it is acknowledged the proposal will, if ultimately approved by the Minister for Lands, generate an increase in annual rate revenue for the Shire following revaluation of the relevant affected properties by Landgate. Quantifying the additional revenue likely to be generated was not however considered necessary given the increase is likely to be modest and the significant time and cost associated with seeking valuation advice which will ultimately be undertaken by the Department of Planning, Lands and Heritage at a later, more appropriate point in the process.

In relation to point c) above it should be noted it was and still is difficult for the Shire to identify and document all contingencies and risks associated with the proposal which is why Council resolved that it may only proceed if all immediately adjoining landowners provided written confirmation of their agreement to indemnify the Shire and the State of Western



Australia of any and all third party costs that may arise. Furthermore, the road closure process is quite rigorous with the aim being to compile as much information as possible during the public advertising and agency referral process to identify as many contingencies and risks as possible before referring it to the Department of Planning, Lands and Heritage requesting ministerial approval. It is expected the Department will also undertake its own due diligence with respect to contingencies and risks before making any final recommendation to the Minister for Lands.

Lastly, in relation to point d) of Mr Hosking's submission Council should note the Department of Planning, Lands and Heritage is responsible for arranging and managing the land transfer process in consultation with the relevant landowners which will be undertaken in accordance with legally binding agreements. If a landowner does not fulfil their obligations under the agreement it is open to the Minister to then authorise the sale and transfer of land not taken to the other immediately adjoining property owner.

In light of:

- i) the outcomes from consultation with all immediately adjoining landowners and their written agreement to indemnify the Shire and the State of Western Australia of any and all third party costs that may be triggered by the road closure process;
- ii) the outcomes from public advertising in which no objections were received;
- iii) the ability to accommodate Horizon Power's request to create a suitable easement/s to provide a legal right of access to all existing electricity supply infrastructure in perpetuity for ongoing maintenance and repair purposes if the road reserve is ultimately closed;
- iv) the long terms benefit to all immediately adjoining landowners, including those that have constructed unauthorised structures within the road reserve area which can now be formally approved by the Shire upon receipt of the required applications subject to compliance with all legislative and regulatory requirements;
- v) Council's ability to still grant development approval for any existing unauthorised and future proposed works and/or uses within those portions of the road reserve to be amalgamated into all immediately adjoining properties despite its current 'Local Road' reserve classification in the Shire's Town Planning Scheme No.5 and proposed new Local Planning Scheme No.9;
- vi) the limited need for the road reserve area to accommodate future traffic and the fact the Shire has no short, medium or long term plans to construct all or part of the road reserve area for public access purposes (i.e. the road reserve is of no strategic benefit or significance and will be costly to construct due to the need to secure a clearing permit approval from the Department of Water and Environmental Regulation to accommodate future road construction works);
- vii) the long term cost savings to the Shire in terms of maintaining the unconstructed road reserve or constructing a new road carriageway and associated drainage infrastructure within the road reserve area; and
- viii) the additional rates income likely to be received by the Shire if the road reserve is ultimately closed, albeit modest in terms of total value,

it is recommended that Council resolve to request the Hon. Minister for Lands' final approval to the road closure proposal pursuant to section 58 of the *Land Administration Act 1997* and associated regulations.

**VOTING REQUIREMENT**

Simple majority

**ATTACHMENTS**

1. Attachment 1 - Written Indemnification from all Affected Landowners  
2. Attachment 2 - Submissions  

**RESOLUTION 62/23**

**Moved:** Cr Paul White

**Seconded:** Cr Rowena Mouda

**That Council resolve to:**

1. Acknowledge the outcomes from public advertising of the proposal to permanently close the southern 2.378 hectare unconstructed portion of the Holland Street road reserve between Derby Highway and Fitzroy Street, Derby and the fact no objections were received;
2. Formally request the Hon. Minister for Lands' final approval to the permanent closure of the southern 2.378 hectare unconstructed portion of the Holland Street road reserve between Derby Highway and Fitzroy Street, Derby pursuant to section 58 of the *Land Administration Act 1997* and associated regulations with the land comprising the closed road reserve to be offered to all immediately adjoining landowners for acquisition and amalgamation with their properties in equal portions; and
3. Authorise the Shire Administration to prepare and submit the required documentation and plans to the Lands Division of the Department of Planning, Lands and Heritage requesting the Hon. Minister for Lands' formal consideration and final approval to the road closure proposal, including confirmation all immediately adjoining landowners have provided written agreement to indemnify the Shire and the State of Western Australia against all future possible costs/claims arising from the project's implementation.

In Favour: Crs Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 6/0**

*At 2:02 pm, Cr Geoff Haerewa returned to the meeting.*

*Cr Geoff Haerewa (Shire President) resumed the chair at 2:02pm.*

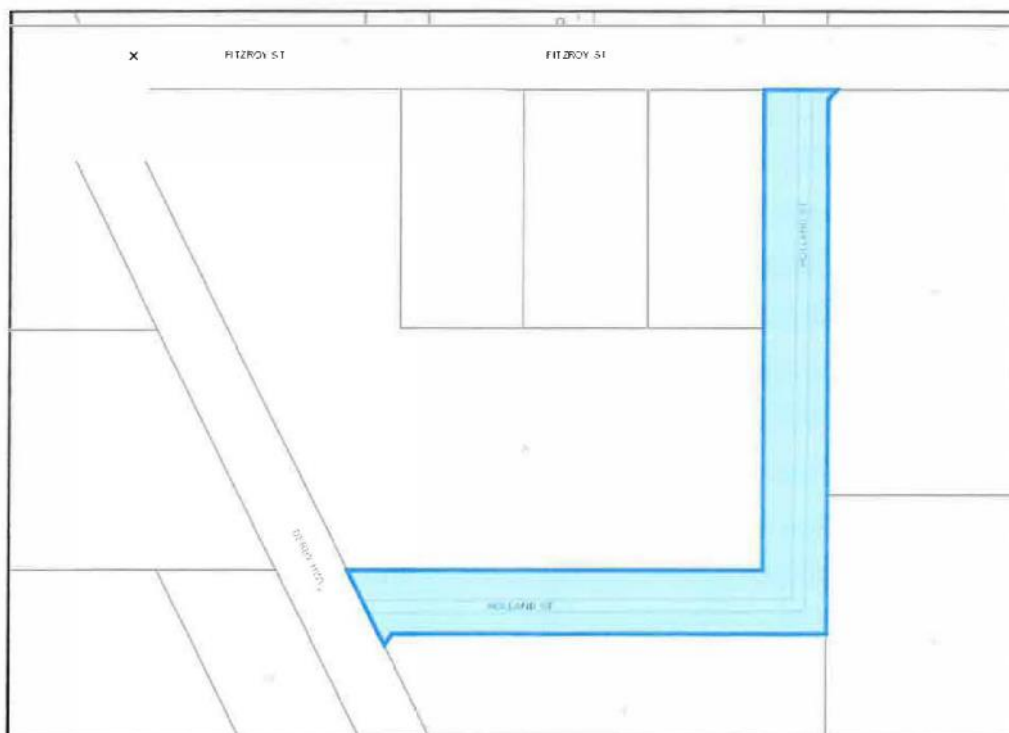
**ATTACHMENT 1**

Amanda Dexter  
Chief Executive Officer  
Shire Derby West Kimberley  
PO Box 94  
Derby WA 6728

Dear Amanda.

**INDEMNIFICATION REQUEST: Agreeable to the proposed road closure****Portion of Holland St Derby 6728 WA**

Further to the request to permanently close Holland Street, I the undersigned, confirm my agreement to the proposal, including my willingness & intention to indemnify the Shire & State of WA against all potential costs & claims that may arise.



Yours Sincerely,

Kelvin Moore

To: Shire of Derby West Kimberley  
From: Lynette Henderson-Yates  
Date: 9<sup>th</sup> September 2022

The Chief Executive Officer  
Shire of Derby West Kimberley  
Derby WA 6728

**Agreement to Proposed Closure of Portion of Holland Street, Derby, REF 154014**

Dear Amanda,

With reference to your letter dated 31 August 2022, I hereby confirm my agreement to the above proposal and that I am willing and it is my intention to indemnify the Shire of Derby West Kimberley and the State of Western Australia against all potential costs and claims that may arise.

Kind regards



Lynette Henderson-Yates

Amanda Dexter  
Chief Executive Officer  
Shire Derby West Kimberley  
PO Box 94  
Derby WA 6728

Dear Amanda.

**INDEMNIFICATION REQUEST: Agreeable to the proposed road closure**

**Portion of Holland St Derby 6728 WA**

Further to the request to permanently close Holland Street, I the undersigned, confirm my agreement to the proposal, including my willingness & intention to indemnify the Shire & State of WA against all potential costs & claims that may arise.



Yours Sincerely,

Sandra Moore



Amanda Dexter  
Chief Executive Officer  
Shire Derby West Kimberley  
PO Box 94  
Derby WA 6728

Dear Amanda.

**INDEMNIFICATION REQUEST: Agreeable to the proposed road closure**  
**Portion of Holland St Derby 6728 WA**

Further to the request to permanently close Holland Street, I the undersigned, confirm my agreement to the proposal, including my willingness & intention to indemnify the Shire & State of WA against all potential costs & claims that may arise.



Yours Sincerely,

*Carmel Moore*  
Carmel Moore

## ATTACHMENT 2

**From:** [Mark Chadwick](#)  
**To:** [Wayne Neeter](#); [Jon Douglas](#)  
**Subject:** FW: IS1473 - REQUEST FOR COMMENT - PROPOSED ROAD CLOSURE PORTION OF HOLLAND STREET, DERNY  
**Date:** Thursday, 8 December 2022 11:55:48 AM  
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FYI – relates to Council agenda?

**Mark Chadwick**  
Manager of Development Services

**P** 9191 0999  
**E** [Mark.Chadwick@sdwk.wa.gov.au](mailto:Mark.Chadwick@sdwk.wa.gov.au)



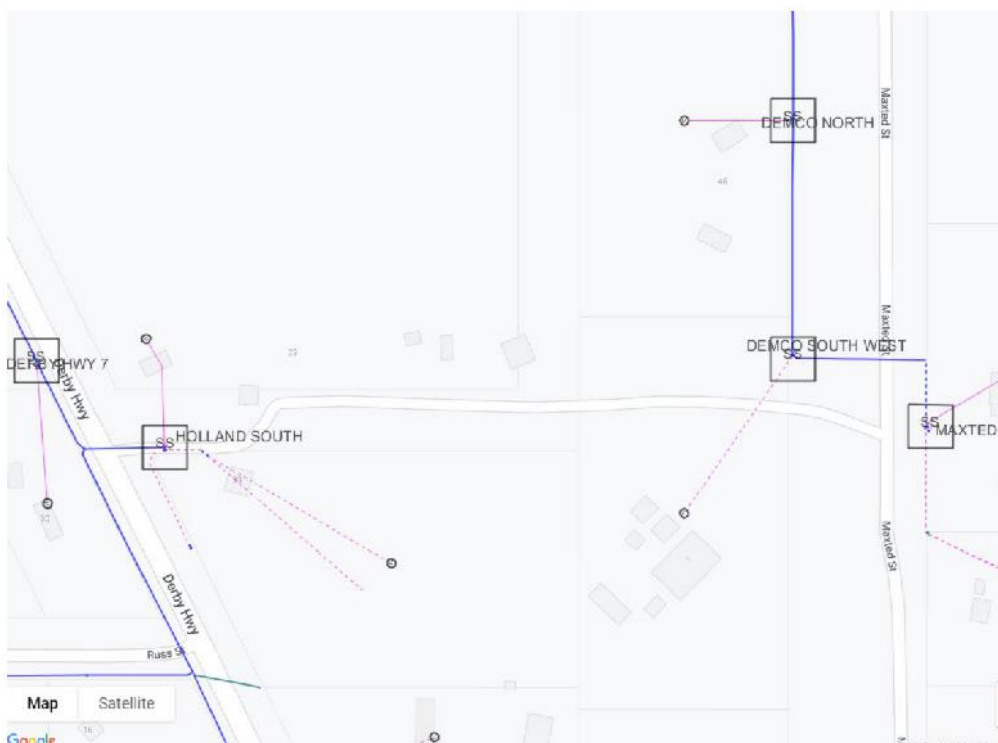
30 Loch Street  
PO Box 94, Derby WA 6728  
 [www.sdrw.wa.gov.au](http://www.sdrw.wa.gov.au)



From: Bobbie Garande <Bobbie.Garande@horizonpower.com.au>  
Sent: Tuesday, 6 December 2022 1:41 PM  
To: Customer Service Team <sdwk@sdwk.wa.gov.au>  
Cc: David Keating <David.Keating@horizonpower.com.au>; Muddi Nazir Ahmed <muddi.nazir@horizonpower.com.au>  
Subject: 155473 - REQUEST FOR COMMENT - PROPOSED ROAD CLOSURE PORTION OF HOLLAND STREET, DERBY

Thank you for the opportunity to provide some comments on the **PROPOSED ROAD CLOSURE PORTION OF HOLLAND STREET, DERBY.**

Find the attached map; Horizon Power has some existing infrastructure on small portions of the road approaching Derby Highway and the opposite end. Some easements for access to the infrastructure will be required otherwise, no further comments.



Regards,



**Bobbie Garande**  
Senior Power Systems Officer  
T 708 | 919.2.990.4 | 0439.462.520  
A 2-4 McDaniel Road, Broome WA 6725  
E [Bobbie.Garande@horizonpower.com.au](mailto:Bobbie.Garande@horizonpower.com.au)

[www.horizonpower.com.au](http://www.horizonpower.com.au)



Yangarralangan nyamba buru jirra Yawurungany ngarrungunil  
Bugarrigarranyurdany, jarrinygun buru mangara. Murrurlagaja  
yangarrjin yirr yangarrjin nyambagan buru jirra.

We acknowledge Yawuru people as the original custodians of the  
lands where our West Kimberley office is located and extend that  
respect to all First Nations people across our service area.



Horizon Power, ABN 57 955 011 697, Karratha, Western Australia. Telephone: +61 8 6310 1000

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**Chief Executive Officer  
Shire of Derby West Kimberley  
PO Box 94  
Derby WA 6728**

Richard Hosking  
55 Fitzroy Street  
Derby WA  
PO Box 158 Derby 6728

16 December 2022

Dear Amanda,

**RE. COUNCIL RESOLUTION 110/22. PROPOSED CLOSURE AND SALE OF 2.378 HECTARES  
COMPRISING ONE SECTION OF HOLLAND STREET DERBY.**

As requested in the notice, I advise I am currently occupying lot 55 Fitzroy Street Derby which is adjacent to the subject property.

Lot 55 Fitzroy Street has a shared boundary with the balance of Holland Street i.e. Holland St being contiguous over Fitzroy Street.

How will the intended road closure affect me?

**1. As an occupier of the property opposite:**

My partner and I, along with pet dog, walk along tracks that wind their way on the subject carriageway. We don't go near those areas with encroaching buildings, despite a legal right of access backed by the Crown to probably do so.

**2. Town resident wanting the shire to benefit from the proposal.**

I note from the submission and the councils report the sale process would be a benefit to the town because of the relief to build the road and/or maintain the road reserve albeit some administrative costs associated with consultation, advertising and preparing reports to dispose of it.

The report and submission did not mention the additional rates that would become available which would be another ongoing benefit.

It is assumed the council has not provided an estimate of this benefit as an incentive to proceed due to it necessitating valuation and it being too preliminary or deemed nominal?

The main undocumented benefits would flow to the affected land owners being able to expand the size of their properties.

The report and submission did not elaborate on the contingencies or identify risks in the relinquishing process.

Given the number of applicants involved to acquire the subject "lots", the "indemnities" would need to factor in a participant(s) failure to settle on time.

i.e. it is recommended that the council ask the “purchasers” to submit consistent agreements to purchase prior to the sale and transfer. The agreements would need to include terms and conditions for timely payment and settlement i.e. no allowing delayed settlement or allow assignments or other option agreements otherwise the position would revert back to road reserve.

Yours faithfully

*Richard Hosking*



**15 COMMUNITY AND RECREATION SERVICES****15.1 AWARDING OF TENDER 05-2023 - FITZROY CROSSING SWIMMING POOL AMENITIES BUILDING REFURBISHMENT WORKS**

**File Number:** 0460

**Author:** Christie Mildenhall, Acting Director of Community Services

**Responsible Officer:** Amanda Dexter, Chief Executive Officer

**Authority/Discretion:** Executive

**SUMMARY**

That Council award Tender T05-2023 – Fitzroy Crossing Swimming Pool Amenities Building Refurbishment Works to CMT Building Pty Ltd ABN 34 651 038 612 for completing the remedial works at the Fitzroy Crossing Pool Building in order to bring it back to a habitable condition on the basis as set out in the Request For Tender (RFT) on a fixed lump sum price basis.

**DISCLOSURE OF ANY INTEREST**

Nil by author or responsible officer.

**BACKGROUND**

In July 2022 the Fitzroy Crossing Swimming Pool was subject to an arson incident which saw fire damage the administration and first aid rooms within the amenities building at the facility. The pool is owned by the Shire of Derby / West Kimberley and leased to the Department of Communities, who sub-contracts Royal Life-saving WA to manage the pool.

Following a structural assessment completed by Pritchard Francis on behalf of LGIS and McLaren's (property adjusters have been appointed by LGIS to manage the claim process) it was determined the facility was structurally sound and works should progress to repair the damage which had been caused by the incident.

The Shire of Derby/West Kimberley issued a Request for Tender for the Fitzroy Crossing Swimming Pool Amenities Building Refurbishment Works (RFT) to engage the services of a registered builder and suitably qualified and experienced Contractor to complete the remedial works at the Fitzroy Crossing Pool Building in order to bring it back to a habitable condition as set out in the Specification and other documentation included in the RFT.

The RFT was advertised on 27 March 2023 via Tenderlink, Shire website, Broome Advertiser and West Australian with submissions closing at 2pm (AWST) on Thursday, 27 April 2023. The RFT included a non-mandatory tender briefing on Thursday, 13 April 2023.

Ichiban Commercial Solutions was appointed by McLaren's to assist with the tender process.

**STATUTORY ENVIRONMENT**

s.3.57 of the Local Government Act 1995

Part 4 of the Local Government (Functions and General) Regulations 1996

**POLICY IMPLICATIONS**

Policy F1 - Procurement of Goods and Services is applicable in relation to this tender.

## FINANCIAL IMPLICATIONS

The works form part of an insurance claim and the outcome of the proposed tender assessment has been reviewed with the Shire's insurers, LGIS, for their approval. Works will be managed as an insurance claim.

## STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
2. Community	2.4 Sustainable Communities	2.2.1 Build, maintain and maximise the use of community facilities

## RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Community:</b> Inability to build, maintain and maximise the use of community facilities due to poor workmanship, budget overrun, projects not completed on time, failure to bring economic benefit to the community and failure to deliver best value for money for ratepayers.	Possible	Moderate	Medium	Process completed as a public tender in order to assess the contractor's ability to deliver the project on time, to the budget and the required specification in order to ensure that the tenderer will deliver value for money for the Shire.  Utilising a local established contractor operating in the Shire provides further mitigation and control due to local knowledge and experience working in remote areas.

## CONSULTATION

The tender assessment panel consisted of;

- Christie Mildenhall, Acting Director of Community Services
- Megan Neshoda, Community Recovery Coordinator
- Celia Jordaan, Ichiban Commercial Solutions

The recommendations of the tender panel have been reviewed by Paul Martelli of McLaren's, property adjuster appointed on behalf of LGIS, as well as LGIS.

## COMMENT

One tender was received for the RFT:

No	Tenderer	Comments
1	CMT Building WA Pty Ltd	<p>A well-presented tender with all criteria answered and back up documentation provided as required.</p> <p>CMT Building WA Pty Ltd is a local business and has delivered works and services to the Shire previously without any issues.</p> <p>The pricing is indicative of the current supply chain constraints faced by many construction companies as well as access specifically to the Kimberley area as a result of the recent flooding.</p>

The tender was assessed against meeting the requirements with respect to mandatory criteria (not applicable), compliance, qualitative criteria and pricing criteria. The detailed outcome of the assessment completed, is included in the related documentation as provided with the Tender Assessment Workbook (confidential).

In terms of the evaluation of the RFT, the RFT evaluation was broken down into the following main stages:

- a. Stage 1: Mandatory Criteria - no mandatory criteria applied to the RFT;
- b. Stage 2: Compliance Criteria – CMT Building WA Pty Ltd met all the requirements of the compliance criteria, including providing evidence of builder registration and insurances;
- c. Stage 3: Qualitative Criteria – CMT Building WA Pty Ltd provided all of the required information in a detailed manner;
- d. Stage 4: Pricing – the pricing was assessed against previous budget quotes received as well as taking into consideration current supply chain constraints in the construction industry generally and specifically in the Kimberley area.

The selection criteria and weighting for the RFT was as follows:

CRITERIA	WEIGHTING
Relevant Experience	20%
Proposed Resources - Key Personnel and Resources	20%
Local Content	10%
Local Benefit	5%
Quality Assurance	5%
Pricing	40%

CMT Building WA Pty Ltd achieved a weighted score of 74.5% for its tender submission and scored well across the various criteria.

Given the outcome of the tender evaluation, the panel assessed CMT Building WA Pty Ltd to deliver the best value for money outcomes for the Shire as evaluated against the criteria and requirements of the RFT.

The works will be funded by the Council's insurers. Initial review of the recommendation has been accepted in principle as recommended but final acceptance is being sought from the insurers given the size of the insurance claim. Based on the initial review completed, no issues are anticipated.

**VOTING REQUIREMENT**

Simple majority

**ATTACHMENTS**

1. T05-2023 - Tender Assessment Workbook - Confidential
2. T05-2023 - Pricing Schedule - Confidential
3. T05-2023 - Qualitative Assessment - Confidential

**RESOLUTION 63/23**

**Moved:** Cr Peter McCumstie

**Seconded:** Cr Geoff Davis

**That Council:**

1. Accept the tender submitted by CMT Building Pty Ltd ABN 34 651 038 612 for:
  - (a) completing the remedial works at the Fitzroy Crossing Pool Building in order to bring it back to a habitable condition as set out in the Specification and other documentation included in the RFT;
  - (b) On the basis as set out in the RFT with respect to the fixed lump sum pricing for the works of \$372,732.76 including GST and the schedule of rates (if required during the works).
2. Delegation of authority to the Chief Executive Officer to enter into negotiations with CMT Building WA Pty Ltd to finalise the contract with CMT Building WA Pty Ltd for the Fitzroy Crossing Swimming Pool Amenities Building Refurbishment Works on a fixed lump sum basis of \$372,732.76 including GST; and
3. Delegation of authority to the Chief Executive Officer to finalise the insurance claim for the Fitzroy Crossing Swimming Pool Amenities Building Refurbishment with the Council's insurer for the funding for the works.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0 BY ABSOLUTE MAJORITY**

## **15.2 MEMORANDUM OF UNDERSTANDING BETWEEN THE SHIRE OF DERBY/WEST KIMBERLEY AND NINDILINGARRI CULTURAL HEALTH SERVICES REGARDING YOUTH COLLABORATION GIRL'S PROGRAM**

**File Number:** CS/080/20

**Author:** Shane Edwards, Manager Community Development

**Responsible Officer:** Christie Mildenhall, Acting Director of Community Services

**Authority/Discretion:** Executive

### **SUMMARY**

This report is seeking Council's endorsement of a Memorandum of Understanding between the Shire of Derby/West Kimberley and Nindilingarri Cultural Health Services regarding the delivery of a youth specific girl's program in Fitzroy Crossing.

### **DISCLOSURE OF ANY INTEREST**

Nil by Author and Responsible Officer.

### **BACKGROUND**

Nindilingarri Cultural Health Services (NCHS) is an Aboriginal Community Controlled Health Organisation (ACCHO). It began in 1995, following a wide reaching community consultation. The consultation aimed to establish the type of health service the local Community wanted. The clear message from this consultation was that the community wanted a holistic, culturally appropriate service that recognises the impact of Aboriginal Law, Culture, Spirit and Land issues on the health of the Community. The Community also specified that they wanted an ACCHO that focused on disease prevention and health promotion. Most importantly, they wanted a service that worked together with the existing, State run, hospital service to avoid duplication of services and improve the quality of services for local people. It was from this consultation that the concept of a partnership between the Fitzroy Valley Health Service (FVHS) and NCHS was formed.

NCHS has previously successfully run a program called Skutta Girls, predominately focussed on Girls Health and Sexual Health. This program builds on that, with a broader premise of engagement and recreation topics to re-establish connection and build up a regular safe space for Girls to participate.

The program will be planned in conjunction with staff from both the Shire and NCHS, each term to outline a broad plan and activities to enable a range of topics, activities and fun activities to engage the girls.

### **STATUTORY ENVIRONMENT**

Nil

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

The Memorandum of Understanding addresses that the agreed terms and responsibilities are for the most part similar to the components of existing Shire service delivery, the Shire's commitment

to the collaboration is able to be covered through reallocation within the existing operational budget. The Shire's youth service currently benefits from access to a Centurion transport account for food supplies. This saving will easily cover the additional costs of supporting the girl's program with 2.5-5hr of staff time per week along with food supplies.

### STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
2. Community	2.1 Safe Communities	2.1.3 Provide activities, programs, places and spaces that engage young people
2. Community	2.2 Healthy Communities	2.2.2 Facilitate a range of accessible sporting and recreational activities
2. Community	2.2 Healthy Communities	2.2.3 Provide access to a range of places and spaces where people can meet, recreate, socialise, learn and connect
2. Community	2.2 Healthy Communities	2.2.4 Conduct and/or promote healthy lifestyle initiatives and living standards
2. Community	2.4 Sustainable Communities	2.4.1 Support and assist volunteer, community and sporting groups
2. Community	2.4 Sustainable Communities	2.4.2 Collaborate with key agencies, groups and service providers to improve community services, programs and facilities

### RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Reputation:</b> Failure to enter into an MoU could impact and limit the relationship between the two organisations.	Possible	Moderate	Medium	Council to approve the MoU
<b>Community:</b> Failure to enter into an MoU could restrict the types of activities available to the community	Possible	Moderate	Medium	Council to approve the MOU



## CONSULTATION

A working relationship already exists between NCHS and the Shire through the current youth services programs delivered in Fitzroy Crossing. Both the Shire and NCHS regularly attend monthly “foot soldier” meetings to discuss program delivery and issues related to Youth Services. Recently NCHS approached Shire staff to discuss the possibility of supporting an initiative to deliver a girl’s specific program to run Thursday’s from 2:00pm-4:30pm. The focus will be on providing activities for girls who have expressed interest in doing things other than outdoors, basketball and sport specific programs. Through ongoing consultation a 10-week program has been designed to provide exposure to a range of suitable activities.

## COMMENT

A collaborative approach between the Shire and NCHS will benefit both parties in achieving their overall goals, objectives and program funding requirements. For NCHS, the Shire can support their vision through facility, some resources and human resource support. For the Shire, engaging with some of the most disengaged youth within the community will see a benefit to their delivery of diversionary activities.

NCHS and the Shire have expressed a strong interest in collaborating to maximise the impact they have on Fitzroy Crossing youth services. The attached MoU clearly sets out the expectations of the program along with the responsibilities of both the Shire and NCHS. With assistance provided by the Shire under this MoU, this program will be able to run consistently and be resourced sufficiently to achieve the required outcomes of better engagement of girls within the youth cohort.

## VOTING REQUIREMENT

Simple majority

## ATTACHMENTS

### 1. MEMORANDUM OF UNDERSTANDING SDWK and Nindilingarri - Girls Program

#### RESOLUTION 64/23

**Moved: Cr Geoff Davis**

**Seconded: Cr Paul White**

**That Council:**

- 1. Endorse the proposed Memorandum of Understanding – Youth Girl’s Program between the Shire of Derby/West Kimberley and Nindilingarri Cultural Health Services.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Keith Bedford and Peter McCumstie

Against: Nil

**CARRIED 7/0**



**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**SHIRE OF DERBY/WEST KIMBERLEY; AND**  
**NINDILINGARRI CULTURAL HEALTH SERVICE**

This is an agreement between “Shire of Derby/West Kimberley”, hereinafter called “The Shire” and “Nindilingarri Cultural Health Service”, hereinafter called “Nindilingarri.”

**1. PURPOSE**

The purpose of this MOU is to clearly identify the roles and responsibilities of each party in the delivery of youth specific activities under the Girls Program delivered by both The Shire and Nindilingarri in Fitzroy Crossing. The location of the Program, may be at Nindilingarri, Shire facilities or out on Country.

**2. REFERENCE**

Nindilingarri has previously successfully run a program called Skutta Girls, predominately focussed on Girls Health and Sexual Health. This program builds on that, with a broader premise of engagement and recreation topics to re-establish connection and build up a regular safe space for Girls to participate.

The program will be planned in conjunction with staff from both the Shire and Nindilingarri, each term to outline a broad plan and activities to enable a range of topics, activities and fun activities to engage the girls.

**3. BACKGROUND**

Nindilingarri Cultural Health Services (NCHS) is an Aboriginal Community Controlled Health Organisation (ACCHO). It began in 1995, following a wide reaching community consultation. The consultation aimed to establish the type of health service the local Community wanted. The clear message from this consultation was that the community wanted a holistic, culturally appropriate service that recognises the impact of Aboriginal Law, Culture, Spirit and Land issues on the health of the Community. The Community also specified that they wanted an ACCHO that focused on disease prevention and health promotion. Most importantly, they wanted a service that worked together with the existing, State run, hospital service to avoid duplication of services and improve the quality of services for local people. It was from this consultation that the concept of a partnership between the Fitzroy Valley Health Service (FVHS) and NCHS was formed.

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The Shire's strategic direction is taken from its Strategic Community Plan. The 2021-2031 plan incorporates the following priorities and strategies in relation to collaborative youth services.

**Priority 2.1     Safe Communities**

**Strategy 2.1.3** Provide activities, programs, places and spaces that engage young people.

**Priority 2.2     Healthy Communities**

**Strategy 2.2.2** Facilitate a range of accessible sporting and recreational activities.

**Strategy 2.2.3** Provide access to a range of places and spaces where people can meet, recreate, socialise, learn and connect.

**Strategy 2.2.4** Conduct and/or promote healthy lifestyle initiatives and living standards.

**Priority 2.3     Vibrant & Culturally Rich Communities**

**Strategy 2.3.2** Facilitate and/or contribute to community events, cultural activities and festivals.

**Priority 2.4     Sustainable Communities**

**Strategy 2.4.1** Support and assist volunteer, community and sporting groups.

**Strategy 2.4.2** Collaborate with key agencies, groups and service providers to improve community services, programs and facilities.

A collaborative approach between the Shire and Nindilingarri will benefit both parties in achieving their overall goals, objectives and program funding requirements. For Nindilingarri, the Shire can support their vision through facility, some resources and human resource support. For the Shire, engaging with some of the most disengaged youth within the community will see a benefit to their delivery of diversionary activities.

Nindilingarri and the Shire have expressed a strong interest in collaborating to maximise the impact they have on Fitzroy Crossing youth services.

**Agreements and Commitments**

- Both the Shire and Nindilingarri enter into this MOU in good faith and will work cooperatively to resolve any issues that may arise.

- To share program data of youth engaged in a confidential manner.
- To share resources and costs (for unfunded expenses) associated with the program.

#### **4. SHIRE OF DERBY/WEST KIMBERLEY'S RESPONSIBILITIES UNDER THIS MOU**

The Shire undertake the following:

- Work in collaboration with Nindilingarri for the delivery of the Girls Program. The program is currently planned for Thursdays 2:30 – 4pm.
- Assist with resources for activities.
- Prepare and provide light healthy snacks for the program each week.
- Provide 1 – 2 staff to assist with co-facilitation of the program.
- Once location is determined, any Shire hire of facilities to be booked at no cost.
- Collect de-identified attendance data, to be provided at the end of the Term program.

#### **5. NINDILINGARRI CULTURAL HEALTH SERVICE RESPONSIBILITIES UNDER THIS MOU**

Nindilingarri undertake the following:

- Work in collaboration with the Shire for the delivery of the Girls Program. The program is currently planned for Thursdays 2:30 – 4pm.
- Assist with resources for the activities.
- Provide a staff member to co-facilitate the Girls Program.
- If venue is at Nindilingarri, organise bookings and waive any fees for this.
- Foster and encourage positive engagement of young people with Derby Youth Service staff.
- Support staff with behaviour management if young people are attending both programs. (For example if a serious issue of behaviour resulted in a ban at the youth service, this would be discussed with the young person before entry to the program.)

#### **6. REVIEW AND EVALUATION**

The Shire and Nindilingarri may from time to time review this Agreement and seek variation to the MOU terms by providing written notice two (2) week's in advance subject to the agreement of both parties.

#### **7. TERM OF AGREEMENT**

This Agreement shall operate for a period of three (3) months commencing from the date the agreement is made. A formal annual review will be held at the end of the three (3) month period to assess the ongoing viability of the partnership and possible MOU extension.

#### **8. DISPUTES RESOLUTION**

In the event of a dispute that cannot be resolved by the Shire or Nindilingarri, an independent arbitrator approved by both Nindilingarri and Shire will be appointed to assist with negotiating an end to the dispute. The intent to seek arbitration is to be provided in writing giving two (2) week's notice

**9. FUNDING**

This MOU does not include the reimbursement of funds between the two (2) parties.

**10. EFFECTIVE DATE**

This MOU shall be effective upon the signature of the Shire of Derby/West Kimberley and Nindilingarri Cultural Health Service authorised officials.

It shall be active from ***approval date 2023*** to ***15 December, 2023***

The Shire of Derby/West Kimberley and Nindilingarri Cultural Health Service indicate agreement with this MOU by their signatures

**Shire of Derby West Kimberley**

**Nindilingarri Cultural Health Service**

.....

.....

Signature

Signature

.....

.....

Print Name

Print Name

.....

.....

Date

Date

**16 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

- Nil.

**17 NEW BUSINESS OF AN URGENT NATURE**

- Nil.

**18 MATTERS FOR WHICH THE MEETING MAY BE CLOSED (CONFIDENTIAL MATTERS)**

- Nil

**19 CLOSURE****19.1 Date of Next Meeting**

The next ordinary meeting of Council will be held Thursday, 29 June 2023 in the Council Chambers, Clarendon Street, Derby.

**19.2 Closure of Meeting**

The Presiding Member closed the meeting at 2:06pm.

**These minutes were confirmed at a meeting on**

29 June 2023

.....

Signed:  .....

**Presiding Person at the meeting at which these minutes were confirmed.**

Date: 29 June 2023 .....