



**Shire of Derby /
West Kimberley**

AGENDA

Special Council Meeting Thursday, 22 August 2024

I hereby give notice that a Special Meeting of Council will be held on:

Date: Thursday, 22 August 2024

Time: 5:00 PM

**Location: Council Chambers
Clarendon Street
Derby**

Tamara Clarkson

Acting Chief Executive Officer



Our Guiding Values

We are **PROUD** of who we are and where we live.

We will create a **POSITIVE LEGACY** for our children and children's children.

We will go about our business with **INTEGRITY, TRANSPARENCY and AUTHENTICITY**.

We value and **RESPECT** what our community has to say and will strive to make things happen.

We are **PROUD** of and value the **KNOWLEDGE** of our diverse and strong people and cultures.

We value our **RELATIONSHIPS** and will work with others to achieve common goals and gain maximum impact.

We are **PROUD** of and **COMMITTED** to the responsible preservation of our unique natural environment and making sure our built environment reflects our current and future needs.

We are open for and encourage business, industry and all aspects of **COMMUNITY DEVELOPMENT**, particularly our thriving arts and cultural scene.

Disclaimer

No responsibility whatsoever is implied or accepted by the Shire of Derby/West Kimberley (Shire) for any act, omission or statement or intimation occurring during Council or Committee meetings.

The Shire disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any Council Member or officer of the Shire during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire.

The Shire warns that anyone who has any application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application and any conditions attaching to the decision made by the Shire in respect of the application.

Notes for Members of the Public

PUBLIC QUESTION TIME

The Shire of Derby/West Kimberley extends a warm welcome to you in attending any Shire meeting. The Shire is committed to involving the public in its decision-making processes whenever possible. The ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective. The Shire sets aside a period of 'Public Question Time' to enable a member of the public to put questions. Questions should only relate to the business of the Shire and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Presiding Member may either answer the question or direct it to an officer to answer, or it will be taken on notice.

Any comments made by a member of the public become a matter of public record as they are minuted by Council. Members of the public are advised that they are deemed to be held personally responsible and legally liable for any comments made by them that might be construed as defamatory or otherwise considered offensive by any other party.

MEETING FORMALITIES

Local government Council meetings are governed by legislation and regulations. During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation. Members of the public shall ensure that their mobile telephone or audible pager is not switched on or used during any Shire meeting.

Members of the public are hereby advised that the use of any electronic, visual or audio recording device or instrument to record proceedings of the meeting is not permitted without the permission of the Presiding Member.

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Notes for Council Members

NATURE OF COUNCIL'S ROLE IN DECISION MAKING

Advocacy:	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
Executive/Strategic:	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations, grants, and setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Administrative:	When Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.
Review:	When Council reviews a decision made by Officers.
Information:	Includes items provided to Council for information purposed only that do not require a decision of Council (that is for 'noting').

ALTERNATIVE MOTIONS

Council Members wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Chief Executive Officer prior to the Council meeting.

DECLARATIONS OF INTERESTS

Council Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Council Members must disclose the nature of their interest in matters to be discussed at the meeting (Part 5 Division 6 of the *Local Government Act 1995*). Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting (Sections 5.70 and 5.71 of the *Local Government Act 1995*).

APPLICATION FOR LEAVE OF ABSENCE

In accordance with Section 2.25 of the *Local Government Act 1995*, an application for leave requires a Council resolution granting leave requested. Council may grant approval for Leave of Absence for a Council Member for ordinary Council meetings for up to but not more than six consecutive meetings. The approval of the Minister is required for leave of absence greater than six ordinary Council meetings.

This approval must be by Council resolution and differs from the situation where a Council Member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to a Council Member being disqualified should they be absent without leave for three consecutive meetings.

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1 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS**2 ACKNOWLEDGMENT OF COUNTRY**

In the spirit of reconciliation, the Shire of Derby/West Kimberley acknowledges the traditional custodians of country throughout the Shire and their connection to land, sea and community.

The Shire of Derby/West Kimberley would like to pay respect to the past, present and future traditional custodians and Elders of this nation and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

3 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

A Council Member 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.

4 DISCLOSURE OF INTERESTS**4.1 Declaration of Financial Interests****4.2 Declaration of Proximity Interests****4.3 Declaration of Impartiality Interests****5 PUBLIC TIME**

Due to the nature of this meeting, being a Special Council Meeting, only questions relating to matter on this agenda may be addressed.

5.1 Public Question Time**5.2 Public Statements****6 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

REPORTS

7 TECHNICAL SERVICES

7.1 AWARDING OF TENDER T09-2023/24 ORPHAN ROADS PROJECT

File Number: 0481

Author: Wayne Neate, Director Technical and Development Services

Responsible Officer: Amanda Dexter, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

Council is to consider the awarding of Tender T09-2023/24 being the Orphan Roads Project works for various Orphan roads within the Fitzroy Valley. The work is to reinstate the Orphan Road network of the Fitzroy Valley in an effort to improve the sustainability and accessibility to the remote Indigenous Communities. The works include reshaping and re-sheeting on the road pavement, shoulders, batters, and table drains whilst undertaking education and training of local workforce and emerging companies. It is proposed that the tender be awarded to Buckley's Earthworks and Paving Pty Ltd

DISCLOSURE OF ANY INTEREST

Nil by Author or Responsible officer

BACKGROUND

In January 2023 the town of Fitzroy Crossing and the entire Shire of Derby/West Kimberley suffered one of the most extreme weather events in the history of Western Australia. This event caused major disruptions to the entire Kimberley predominately because of the loss of road and bridge infrastructure.

That significant infrastructure loss put a lens on Fitzroy Crossing and the greater Valley and that intense focus highlighted many deficiencies which significantly impeded the ongoing sustainability and resilience of the Valley. Some of those communities have had their road infrastructure improved e.g. Bungardi their road access has been sealed.

The other major project was the reinstatement of the bridge by the Fitzroy Bridge Alliance (FBA) which was formed between Main Roads Western Australia (MRWA), Georgiou Group, BMD Group and BG&E resources. This project in particular put a large focus on local indigenous employment with a huge benefit to the Fitzroy Crossing valley with over 150 local people employed and with some great skill outcomes for those involved. The FBA put significant resources into the local indigenous employment model working with Gurama Yani U and other organisations to ensure that employment component stayed on track to achieve the construction of the bridge within the desired timeframe.

That model of employment required significant resources and pastoral care to ensure the workforce stayed on track, had good learning outcomes and began to achieve a long-term goal of a more mature workforce in terms of work ethic, skills and knowledge which should lead to better outcomes. The benefits of this approach were recognised by MRWA and the orphan roads project was then developed to provide a similar outcome to what the FBA achieved on a smaller scale but

also at the same time trying to develop the potential of operators and companies within the region that in the long term should benefit both MRWA and the Shire of Derby/West Kimberley.

The Orphan Roads project will be set up in a similar way to the FBA using a contractor model to provide the pastoral care, keep the workforce on track, ensure good learning outcomes and even educate the smaller business's on better business approaches/knowledge which in the long term should achieve a more mature workforce in terms of work ethic, skills and business acumen.

The Shire is not in a position to deliver the project in the same manner as the FBA due to budgetary and staffing constraints so a decision was made to look towards employing a company to undertake those components listed in the previous paragraph of the project whilst achieving some good outcomes on the ground in regards to improvements to the network of roads around the valley.

The roads that have been chosen to use as the training ground in the Valley are as follows;

- Ngurtuwarta Road
- Koorabye Access Road
- Walmajarri Highway – services Yakanarra and Bidijul
- Djugerari Access Road
- Jarlmadangah Access Road
- Jimbalakudunj Access Road

These roads have been prioritised by MRWA.

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 or services.

POLICY IMPLICATIONS

F1 Procurement of Goods and Services

F7 Regional Price preference Policy

FINANCIAL IMPLICATIONS

Funds for the undertaking of this contract are contained within the 2024-2025 budget – Listed as the MRWA (Main Roads Western Australia) Orphan Road. The Funding for the work is coming from MRWA and will then be auspiced by the Shire to undertake the works on the roads negotiated with MRWA. The current funds allocated in the budget were for 6.5 million however that has now been reduced by MRWA to approximately 3.4 million.

It is proposed that the Shire will charge a 3-5% overhead for costs incurred by the use of staff managing the project to ensure that the ratepayers of the shire are compensated for the loss of staff time.

This project will require scrutiny in the highest form to ensure that Council is not out of pocket for any expense incurred and costs are contained within the allocated funds from MRWA.

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	1.1 Collaboration and partnership	1.1.2 Maximise local opportunities
1. Leadership and Governance	1.1 Collaboration and partnership	1.1.3 Maximise regional opportunities that benefit our community
2. Community	2.4 Sustainable Communities	2.4.2 Collaborate with key agencies, groups and service providers to improve community services, programs and facilities
3. Economy	3.1 Industry and business development and growth	3.1.2 Value and support small to medium-sized businesses
3. Economy	3.2 Strong economy	3.2.1 Recognise and promote the economic potential of the district
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
Reputation: The Shire through the process of recovery has built significant relationships with the communities and leaders in the valley along with external agencies. These could be significantly damaged if this work does not occur.	Almost Certain	Moderate	High	Continue to work in particular with MRWA to ensure the project is delivered to the best of the Shire's ability.

CONSULTATION

Officers have been working closely with MRWA over the last 18 months in an effort to reinstate the damaged infrastructure back to where it needs to be to ensure a level of resilience within the entire network.

Officers and MRWA representatives have also presented to the Fitzroy Valley Working Group on several occasions regarding the orphan road project and what is trying to be achieved. Presentations have also been given to the Gooniyandi Aboriginal Corporation regarding the project and timing of the project.

The Shire also established a rebuild Fitzroy Crossing email address rebuildFX@sdwk.wa.gov.au for interested businesses and individuals to register their interest in undertaking any work in regards to assisting in the reconstruction works around Fitzroy Crossing. It is proposed that the head contractor that is awarded the Orphan Road project along with a Shire and MRWA will meet with these contractors to determine what each can offer and where they think improvement is required to then allow their employment on the project.

COMMENT

It is recommended that the tender be awarded to the contractor with the highest average score given by three assessors, using the Approved Tender Scoring Criteria. The Regional Price Preference Policy AF33 was applied to the prices submitted by Buckley's Earthworks and Paving.

The criteria and weighting for this tender were as follows;

Criteria	%
Relevant Experience	15
Key Personnel and Experience	15
Tenderer's Resources	15
Demonstrated Understanding	15
Local Supplier Details	20
Quality Management Systems	15
Risk	5

A score summary is shown below;

Buckley's Earthworks and Paving	C1
Garli Pty Ltd	C2

		C1	C2
Relevant Experience	15%	12.3	9.5
Key Personnel Skills & Experience	15%	10.9	11.0
Tenderer's Resources	15%	10.9	10.2
Demonstrated Understanding	15%	10.7	7.7
Local Supplier Details	20%	12.9	11.7
Quality Management System	15%	10.9	10.3
Risk	5%	3.8	3.3
Totals	100%	72.3	63.6

The shire and other government agencies have led recovery operations to ensure that there is local social and economic benefit experienced directly in the valley. The shire has demonstrated its commitment to aboriginal empowerment through its draft Aboriginal Empowerment Strategy – endorsed by council 22 July 2021. Since this time officers have been committed to getting outcomes that provide a social and economic benefit to the local population.

All agencies have been committed over the last 12 months or more to actioning jobs creation in the valley, with a focus on local aboriginal procurement where possible and a local employment first strategy. The shire has modified its tendering specifications and employment practices to enable local jobs and business creation in an effort to contribute to balanced and sustainable economic development across the region in an effort to impact abject poverty.

Both Buckley's Earthworks and Paving and Garli are capable of undertaking this project with Garli undertaking similar projects on a larger scale in the south west and Buckley's proving they can undertake the work with the recent joint venture and appetite for change in their business processes. The intent of this project is that this appointment becomes a project manager with the drive for all employees and equipment to come from locally based people and companies within the Fitzroy Valley.

The scoring panel and officers feel that Buckley's have the right intent but would like to discuss with them in greater detail how their proposal is to work and get those good social and economic benefits for the Fitzroy Valley. This is why officers are recommending to award to Buckley's in the first instance with a discussion about the intent of the project and if these discussions don't eventuate in the outcomes and intent of the tender then it be awarded to Garli.

VOTING REQUIREMENT

Simple majority

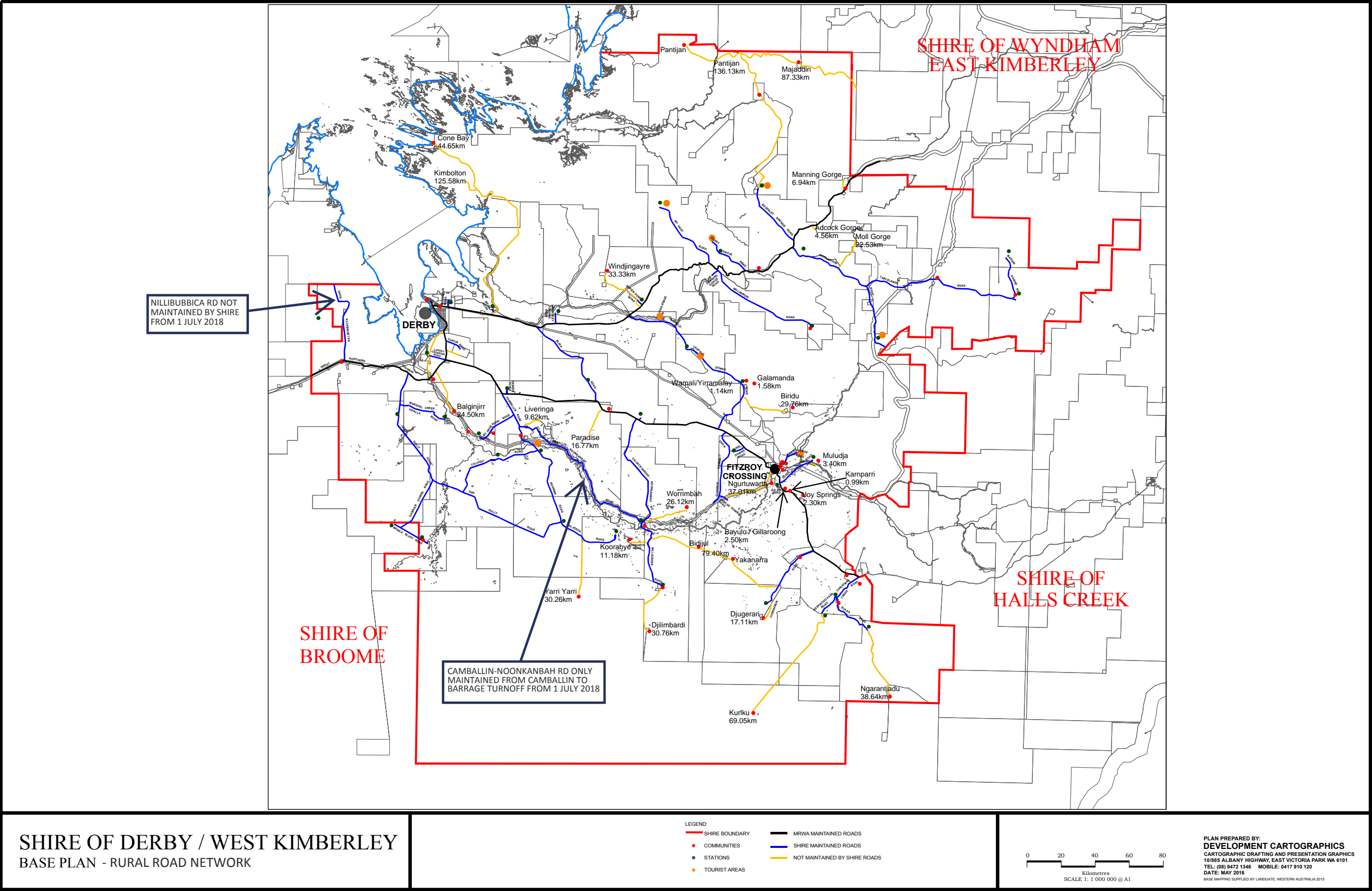
ATTACHMENTS

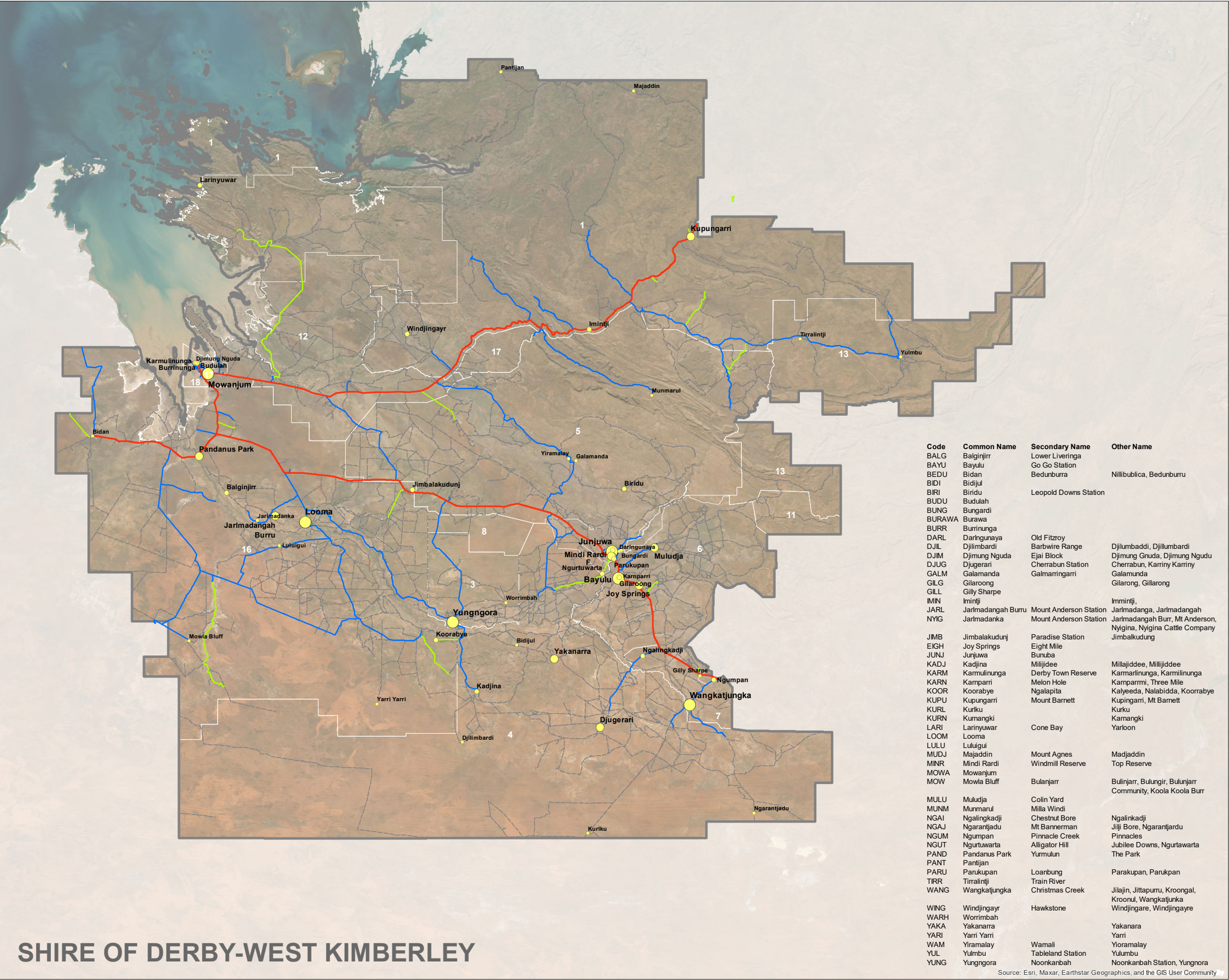
1. SDWK - Road Base Plan [!\[\]\(e6ddc77b791299d975007937cebef274_img.jpg\)](#) 
2. MRWA - Community Road Maps [!\[\]\(62325268b83c539c826661482098edc3_img.jpg\)](#) 
3. Confidential Price Scoring - Confidential

RECOMMENDATION

That Council award Tender T09-2023/24 Orphan Roads Project to;

1. Buckley's Earthworks and Paving Pty Ltd (BEP) and;
2. That should BEP fail to achieve the desired outcome of the project and not agree to sign a contract that it be awarded to Garli Pty Ltd.





LEGEND

Kimberley Region

Road Network

- Main Roads Network
- Shire Road Network
- Miscellaneous Road
- Tracks

Aboriginal Communities

Sizes Denote Population (DPLH)

- 0 - 20
- 21 - 50
- 51 - 200
- >200

Simplified Native Title Boundaries

NOTES

KEY TO NATIVE TITLE BODY CORPORATES

1	Wanjina-Wungurr (Native Title) Aboriginal Corporation
2	Yawuru Native Title Holders Aboriginal Corporation
3	Yunggora Aboriginal Corporation
4	Yanunjarra Aboriginal Corporation
5	Bunuba Dawangari Aboriginal Corporation
6	Gooniyandi Aboriginal Corporation
7	Tiyatiya Aboriginal Corporation
8	Warlangurru Aboriginal Corporation
9	Nimanburr Aboriginal Corporation
10	Mayala Inninalang Aboriginal Corporation
11	Giniyjawarmi Yowaniya Riwi Aboriginal Corporation
12	Madanaa Nada Aboriginal Corporation
13	Yurriyngem Taam Aboriginal Corporation
14	Joombarr-buru Aboriginal Corporation
15	Indigenous Land and Sea Corporation
16	Walalakoo Aboriginal Corporation
17	Madanaa Nada Aboriginal Corporation
18	Walalakoo Aboriginal Corporation

SCALE @ A2: 1:250,000
DATE: 12/11/2023
DRAWN: J. RAO
CRS: GCS GDA 1994
DATA SOURCES:
ESRI, DPLH 2020,
LANDDATE 2023, NNTT 2023

0 5 10 20 30 40 50
Kilometers

MAIN ROADS WESTERN AUSTRALIA
KIMBERLEY REGION

ABORIGINAL COMMUNITY ROADS

FIGURE 1 Shire of Derby-West Kimberley

8 NEW BUSINESS OF AN URGENT NATURE

9 CLOSURE

9.1 Date of Next Meeting

The next ordinary meeting of Council will be held Thursday, 29 August 2024 in the Council Chambers, Clarendon Street, Derby.

9.2 Closure of Meeting