

Submission —

Consultation draft: Fitzroy–Derby water resources management plan

To: Department of Water and Environmental Regulation (via consult.dwer.wa.gov.au)

Re: Consultation draft — Fitzroy–Derby water resources management plan: policy and guidance (released 1 April 2026)

Submission date: 30 June 2026

From: Zena Williams, [REDACTED]

Dear DWER

I write as a Western Australian who supports the position of the Martuwarra Fitzroy River Council and the Kimberley Land Council, and who is alarmed by what this draft plan does **not** do to protect this river. The Martuwarra is a pristine, free-flowing river that has been National Heritage-listed since 2011 for its outstanding natural and cultural values; it is the largest registered Aboriginal cultural heritage site in Western Australia; native title is held along its entire length, and its Traditional Owners recognise it as a living ancestral being with a right to flow.

I make two recommendations:

- 1. That no new groundwater be released for general (commercial) licensing until independent, peer-reviewed science has defined a safe threshold for take.** The plan asks applicants to "demonstrate sustainable groundwater use," but on the plan's own admission the baseline data needed to define what is sustainable does not yet exist, and the agency that would police it has not shown it can be relied upon to do so. Until that threshold is established, "sustainable" is a loophole, not a safeguard. Water set aside in the Aboriginal Water Holding for native title holders' own use is a separate question, properly for Traditional Owners to determine.
- 2. That the proposed Water Advisory Committee be replaced with genuine statutory co-governance** — a Martuwarra catchment authority with co-decision rights, led by Traditional Owners, as the Council itself has recommended since 2020.

I set out the reasoning below.

1. The plan protects the river in name while leaving its lifeline exposed

I welcome several commitments in the draft: that the Fitzroy and its tributaries will not be dammed, that no additional surface water will be licensed, and — importantly — that no further water will be released from the Alluvial and Devonian Reef aquifers, the systems most directly connected to the river. Those are real protections, and I acknowledge them, and they should be retained in the final plan rather than weakened or traded away under development pressure.

A key gap should be closed: the no-dams commitment is silent on floodplain harvesting, the capture of overland flood flows behind levees and banks before they reach the channel. That is not a dam, but it starves the river the same way, and it is not hypothetical. Hancock Agriculture, the agricultural arm of Gina Rinehart's Hancock Prospecting, which holds the Livingina, Fossil Downs and Nerrima stations along the river has proposed diverting around 325 billion litres of floodwater a year into off-stream storage to irrigate fodder crops. That is

floodplain harvesting at industrial scale, and a ban on dams that says nothing about it is only half a protection.

However, the plan's real failure is leaving the river's dry-season lifeline exposed. In the dry season the Martuwarra is not fed by rainfall or surface flow, it is held up by groundwater discharging into permanent and near-permanent pools, the refuges that carry the freshwater sawfish and whipray, the cherabin, fish stocks, waterbirds and riparian vegetation from one wet to the next, and sustain the roughly 7,000 people in the catchment, around 80 per cent of them Aboriginal. The vulnerability is not theoretical: in the summer of 2018, more than forty freshwater sawfish died as a pool dried out on Liveringa Station, with only two saved.

Against that, the plan caps total groundwater use at 75.7 gigalitres a year. That's roughly a quarter of Perth and the south-west's annual water use, and opens about 50 GL of new take from the deeper Wallal, Erskine and Grant Poole aquifers (about 25 GL general licensing, 25 GL the Aboriginal Water Holding, addressed below), at limits of 40 per cent of estimated recharge. **The plan treats these aquifers as separable from the river, yet its own outcomes require that groundwater discharge to the river pools and aquifer-to-aquifer connectivity be maintained "particularly in the dry season", demonstrating understanding that they are connected exactly when it matters most.**

On the Department's own admission, the baseline data to know whether 50 GL can safely be taken does not yet exist: its methods report traces the 40 per cent figure to a generic 2011 statewide risk matrix, not any model of this river, over aquifers of "uncertain" extent, and concedes "limited monitoring data and complex hydrogeology increase uncertainty about thresholds for impact." It even relied on historical rainfall data on the basis that abstraction is currently low, the very condition releasing this water would end.

A plan should not allocate water against a limit it has not yet accurately defined.

2. "Sustainable" is a promise the community has been given before — and it failed

Everything in the groundwater provisions rests on a single word: sustainable. The plan asks licence applicants to "demonstrate sustainable groundwater use," and relies on monitoring, licence conditions and adaptive management to keep take within sustainable limits. That entire structure assumes the regulator will define sustainability rigorously, measure it fairly, and have the will to repeatedly enforce it against commercial pressure when breached. The Australian community has been asked to trust exactly that assurance before, on a far larger river system, and it failed - at catastrophic cost.

The Murray–Darling Basin Plan was built around limits the Commonwealth literally called "sustainable diversion limits." In 2019, the South Australian Royal Commission into the Murray–Darling Basin found that those limits had been set unlawfully, amounted to maladministration, and had ignored the best available science on the catastrophic risks of climate change. That failure followed a century of over-allocation the rivers could not absorb, water-theft and meter-tampering scandals exposed along the system, and the death of an estimated one million native fish in the mass kills at Menindee over the summer of 2018–19. The word "sustainable" did not protect that river. It provided official cover while the system was allocated to the brink of collapse.

The lesson is not that anyone setting limits intends harm. It is that "sustainable" has a documented history of failure in Australian water management whenever the limit is set by negotiation rather than science, and whenever the monitoring and enforcement behind it are

weaker than the commercial pressure pushing against it. A safeguard is only ever as strong as the regulator standing behind it — and here the State’s own independent auditor has already weighed in: **the Kimberley Land Council has pointed to the findings of the WA Auditor General's 2025 Performance Audit, Regulation of Water Licences, that the current licensing and monitoring system cannot be relied upon to protect Country.** That is not an advocate’s assertion. It is an audit of the very compliance machinery on which any promise of “sustainable” groundwater use would depend.

A plan that hands a pristine, living river’s survival to an undefined “sustainable” test, administered through a system already found wanting, and resting on a word that has failed Australia’s largest river before, **is not offering a safeguard.** It is offering a hope, with no enforceable floor beneath it. That is not a sufficient basis on which to open this catchment to a single new licence.

3. This is re-allocation, not allocation

The plan speaks of making groundwater “available” for development, as though there is spare water in the system waiting to be put to use. There is not.

As the Martuwarra Fitzroy River Council has consistently put it, the waters of the Fitzroy are already fully allocated to the values they hold; to the river’s own flow, to the ecosystems that depend on it, and to the food, wellbeing and cultural life of Aboriginal people across the catchment. **Any new licence does not draw on a surplus. It re-allocates water away from those existing uses and values toward a new commercial one.** The accurate description of what the plan enables is not allocation but re-allocation, and the public is entitled to see it described that way, with the losses named alongside the gains.

This matters because of where the burden of proof should sit. Against a backdrop of proposals to extract hundreds of billions of litres a year from this catchment, the precautionary principle requires that a proponent demonstrate, on peer-reviewed science, that a proposed take will cause no foreseeable harm to the river or to those who depend on it — before water is allocated, not after damage appears.

This plan inverts that. It sets allocation limits at 40 per cent of estimated aquifer recharge, invites extraction expressly to build knowledge the Department concedes it lacks, and relies on adaptive management to “minimise or mitigate impacts if they occur” — wording that concedes impacts may occur, and then places the risk that they do on the river rather than on the licensee. The plan calls its limits “precautionary.” On the evidence of its own methods report, which concedes the thresholds for impact are not yet known, genuine precaution points the other way: **where the science cannot yet say what level of take is safe, the safe volume is none.** The burden belongs on those who want to take the water, not on the river and its people to prove harm after the fact.

None of this is an argument against a Kimberley economy. The Fitzroy Valley already supports livelihoods that depend on the river staying healthy, fishing, tourism, and a fast-growing cultural-tourism sector. There is real momentum behind Aboriginal ranger and land-management work, carbon abatement, bush foods and renewable energy. These are industries that build on a living river rather than draining it, and they are where the catchment’s lasting prosperity lies. The choice is not between the river and a future for the region; it is between extractive development that puts the Martuwarra on a Murray–Darling path and a diversified economy that keeps it free-flowing.

4. The fix is co-governance, not an advisory committee

The draft proposes a Water Advisory Committee. I ask the Department to recognise it for what its own terms make it: the weakest of the available models. By the plan's own description, the committee would be established under the Water Agencies (Powers) Act 1984, its members appointed by the Minister for Water, and its function would be to advise the Minister. **In plain terms, the Minister selects the people who advise him, and remains free to set their advice aside.** That is the "voice without authority" template, the same approach taken with the Yarra River in Victoria, where the river was recognised as a living entity and given a council to speak for it but no power to decide anything. The Kimberley Land Council and the Traditional Owner Water Working Group have already said they are underwhelmed by a plan that undervalues the role of Traditional Owners. A Minister-appointed advisory committee does not answer that objection; it confirms it.

The plan's own vision promises that "the State Government and Traditional Owners work together to manage water." A committee that merely advises is not working together to manage; it is being consulted. The distance between that vision and the only mechanism the plan offers to deliver it is precisely the gap this submission asks the Department to close. There is a better and well-precedented model, and the Council has been asking for it since 2020. **In its Conservation and Management Plan, and again in its 2021 submission, the Martuwarra Fitzroy River Council recommended that the WA Government co-design a governance model comprising both a statutory catchment authority and legislation specific to the Martuwarra-Fitzroy, recognising the Council as a key legal and cultural entity for the river. This is the substance of co-governance: not the right to be consulted, but the right to co-decide.**

This is also how the most successful river-protection model in the region actually works. New Zealand's Te Awa Tupua arrangement for the Whanganui River does not protect the river through an abstract declaration; it protects it through a guardianship body — Te Pou Tupua — with standing to act and a genuine role in decisions about the river. The equivalent here is a statutory Martuwarra authority, Traditional-Owner-led, with co-decision rights over water licensing and development in the catchment. That is the mechanism that would turn the river's recognised right to live and flow from an aspiration into something enforceable — and it is the mechanism this plan conspicuously avoids.

I ask that the final plan commit to co-designing such a statutory co-governance body with the Martuwarra Fitzroy River Council and the Kimberley Land Council, and that water-allocation decisions in the catchment require that body's agreement rather than merely its advice.

Actions the Department must take

1. **Release no new groundwater for general (commercial) licensing until independent, peer-reviewed science has defined a safe threshold for take.** The roughly 25 GL a year in the draft's general licensing component — the water any applicant can seek for irrigated agriculture, fodder cropping, mining and the like — should not be released on the current basis. The Martuwarra's dry-season balance is already at its limit: for months each year the river survives as a chain of groundwater-fed pools, and that margin is narrowing as the climate brings hotter, longer and more variable dry seasons; changes the plan's own

methods report suggests are already affecting the catchment's ecosystems. There is no commercial surplus to give away, and, on the Department's own admission, not yet the baseline data to know otherwise. The word "sustainable" has already failed once on Australia's largest river system; until the science exists to define what a safe take actually is, the only genuinely precautionary position on commercial extraction is none. The Fitzroy–Derby Aboriginal Water Holding stands on a different footing: whether and how water is set aside for native title holders' own use is for Traditional Owners to determine, not for me to speak to, though the same dry-season connectivity questions bear on its prudent scale.

2. **Extend the no-further-take position (for general licensing) to the Wallal, Erskine and Grant Poole aquifers** until independent, peer-reviewed science establishes that dry-season extraction from them will not reduce groundwater discharge to the river pools — the very connectivity the plan commits to maintaining. The plan rightly restricts the Alluvial and Devonian Reef aquifers; the same logic applies to any aquifer hydraulically connected to the river, and the plan itself concedes that connection exists in the dry season.
3. **State the no-dams commitment to expressly cover floodplain harvesting**, the capture of overland flood flows behind levees and banks before they reach the channel. It is not a dam, but it starves the river the same way, and it is not hypothetical: Hancock Agriculture, the agricultural arm of Gina Rinehart's Hancock Prospecting, which holds the Liveringa, Fossil Downs and Nerrima stations on the river, has proposed diverting around 325 billion litres of floodwater a year into off-stream storage. A ban on dams that is silent on this is only half a protection.
4. **Describe any new licensing proposal accurately as re-allocation, not allocation**, and adopt this as the governing principle for the catchment: Martuwarra water is already fully committed to the river and to existing uses. So any future change to take water including any future review of the position in Asks 1–3, must be justified by proponents demonstrating no foreseeable harm, on peer-reviewed and independently reviewable science, before a single litre moves. On the current evidence, that standard is not met, which is precisely why no new allocation should proceed now.
5. **Replace the proposed Water Advisory Committee with a statutory, Traditional-Owner-led co-governance authority with co-decision rights**, co-designed with the Martuwarra Fitzroy River Council and the Kimberley Land Council, consistent with the Council's recommendations since 2020 and the guardianship model that protects the Whanganui River. This is perhaps the most important ask of all.

The Martuwarra is one of the last great living rivers in Australia. It is pristine, free-flowing, and recognised by its Traditional Owners as ancestral, not merely as a resource.

This plan will decide whether it stays that way. The choice is not between protection and development; it is between protecting a living river with words, or protecting it with structure that holds when commercial pressure comes. I ask the Department to choose structure and revise the plan in accordance with the above actions.

Yours sincerely,

a Williams

30th June, 2026