

30 June 2026

To: Department of Water and Environmental Regulation

Re: Fitzroy-Derby Water Resources Management Plan

Introduction

The Department of Water and Environmental Regulation (DWER) has released the Consultation draft: Fitzroy-Derby water resources management plan (draft plan) and is seeking feedback. DWER has requested particular feedback on how the Water Advisory Committee should be implemented, and any mining specific information in respect of the region.

DWER is seeking input regard to how the Western Australian State Government should support sustainable groundwater use for economic development in the Fitzroy–Derby plan area, while protecting the Fitzroy River and water-dependent ecological, cultural, heritage and social values of the plan area.

About AMEC

AMEC is a national industry association representing over 550 member companies across Australia, with over half invested in Western Australia (WA). Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 314,000 people. In 2025-26, the industry generated \$383 billion in resource exports, invested \$3.95 billion in exploration expenditure to discover future mines (2025), and collectively paid over \$59.4 billion in royalties and taxes.

Background

During the initial consultations (2020 and 2023) for the Fitzroy-Derby allocation plan, AMEC provided the following feedback:

- The development of mining projects is contingent on reliable, affordable and secure access to water.
- Industry does not want to see changes to the water framework result in reduced investment attractiveness, reflective of water access issues experienced in other areas of the nation.
- Strategic Aboriginal Water Reserves are considered an untested policy tool.
- Fitzroy was the first allocation plan beyond a Native Title Settlement Agreement to stipulate Native Title Water allocations.
- Planned reduction in the allocation limits of both the Unconfirmed Peninsula and Lower Erskine is significant – Industry questions the reason behind such a drastic decrease and is concerned this initiative will be replicated in other areas which could result in unintended consequences that have not been fully considered in planning arrangements.

- AMEC requests continued consultation as the recommendations from the plan are further discussed.

General Comments

AMEC welcomes the continued consultation, with the release of the Consultation draft Fitzroy-Derby water resources management plan.

The development of mining projects is contingent on reliable, affordable and secure access to water and for the State Government to commit to ensuring the security, access and sustainability of water services. Predictable water law and licensing policy materially matters to industry's operations and future investment.

AMEC recently provided a submission to the Productivity Commission's (PC) consultation on National Water Reform 2026. The AMEC submission to the PC also highlighted that the development of mining projects is contingent on reliable, affordable and secure access to water. Further stating that AMEC supports effective water management that permits sustainable development without disadvantaging any commercial or residential group.

AMEC members have raised concerns that DWER appears to be using a regional water allocation plan to introduce broader policy concepts that may have statewide implications, rather than dealing with those concepts through a consistent reform agenda of the Western Australian legislative water framework.

DWER Policy Positions

The State Government, via DWER, has stated the following 10 Policy Positions that underpin the draft Fitzroy-Derby Water Resources Management Plan as:

1. No dams.
2. Groundwater supported only where sustainable.
3. Alluvial and Devonian Reef aquifers restricted.
4. No additional surface water.
5. A Fitzroy Aboriginal Water Reserve established.
6. Traditional Owners able to exercise water-related rights and advise on water planning and licensing.
7. Developments to avoid/minimise impacts.
8. Water licensing aligned with other regulatory decisions.
9. A considered approach to water developments supported.
10. Establish an advisory group.

Specific Comments

Many of the specific comments and recommendations are regarding the development of clear guidance, detailed and transparent policies and methodologies and governance. Acknowledging, that DWER is calling for feedback on these proposals and highlighting that they are awaiting feedback before developing policies and governance around these proposals.

Protecting the Fitzroy River and dependent environments (policy positions 01, 02, 04 and 07)

The draft plan states when assessing applications, DWER may consider that “all watercourses, wetlands and springs” are likely Aboriginal heritage sites, as per page 16, policy 1.1:

Local licensing policy: all watercourses, wetlands and springs are likely Aboriginal heritage as defined by the Aboriginal Heritage Act 1972 unless advised otherwise by the Department of Planning, Lands and Heritage (DPLH).

This position may intrinsically link Inland Waters with Social Surroundings for projects that interact resulting in increasing complexity for the Environmental Protection Agency, and other agencies in their approvals processes.

Water is becoming increasingly more contentious in Native Title Agreements and Indigenous Land Use Agreement (ILUA) negotiations. AMEC recommends the development of a policy, which identifies and assigns values to the identification of watercourses, wetlands and springs that are likely Aboriginal Heritage sites. Exploration and mining companies are more often than not the group required to undertake expensive hydrogeology work to quantify the aquifer and model the water allocations. Therefore, policies and guidance in this space would be recommended.

AMEC recommends DWER liaises with DPLH to ensure that the adoption of a position in this draft plan that presumes waterways as Aboriginal Heritage sites does not conflict with definitions in the Aboriginal Cultural Heritage Inquiry System (ACHIS). ACHIS distinguishes between Historical Places and Heritage Sites, with major rivers typically recorded as Historic Places not as Heritage Sites. The adoption by DWER to consider all watercourses, wetlands and springs as likely Aboriginal heritage sites could cause confusion with Aboriginal Heritage Regulations as administered by DPLH, and therefore create complexity for proponents.

Groundwater Allocation Limits and Availability (policy positions 02, 03 and 07)

The draft plan’s groundwater allocation limits reflect a risk-averse approach that prioritises protection of the Fitzroy-Derby water system, and cultural values. The cost falls mainly on foregone economic development, and slower growth in pastoral and irrigated agriculture.

The draft plan sets 75.7GL per year total groundwater allocation limit, with 50GL per year available for use, further broken into an allocation of 25GL general licensing and 25GL for the Aboriginal Water Holding. It also prohibits new water from Alluvial aquifer, Devonian Reef aquifer and Derby Peninsula (except public purposes). This is a significant reduction from the 2025 conceptual numbers used by DWER for consultation (104.6GL).

If DWER considers it has discretion to reserve material portions of future allocation outside the general licensing pool, that discretion should be exercised under clear statewide guidelines and transparent assessment criteria, including transparency regarding groundwater allocation methodologies. Will the Government consult on these methodologies?

Fitzroy-Derby Aboriginal Water Holding (policy position 05)

AMEC requests that the method of administration and the governance put in place for the proposed 25 GL per year in the Fitzroy-Derby Aboriginal Water Holding is transparent. AMEC would also request that if this model were intended to be applied more broadly across WA that continued monitoring, evaluation and consultation of the water holding is undertaken.

Aboriginal Water Reserves and Holdings is not a new concept as the Yamatji Settlement did include a Strategic Aboriginal Water Reserve which provided a 25.8 GL of water per year for use or trade by the Yamatji Southern Regional Corporation (YSRC). That strategic reserve

can be used, leased or traded by YSRC to generate economic development opportunities. However, that reserve was established amidst a fundamentally differing set of circumstances. So, while this is not a complete precedent, it does represent the first time this will be introduced beyond a Native Title Settlement.

Careful and Staged Groundwater Development (policy positions 02,06, 08 and 09)

AMEC recommends that DWER clearly distinguishes between consultation, consent-based agreement-making, and statutory approval processes. Policy Position 2.1 (page 25 of the draft plan) states that DWER will encourage applicants to respect the principles of Free, Prior and Informed Consent (FPIC). FPIC is not currently a legislative requirement in Western Australia or Australia. While well meaning, this requirement is ambiguous.

DWER should provide greater clarity regarding what constitutes adequate consultation, how situations involving non-response or unresolved disagreement will be managed, and how Traditional Owner views will be considered alongside hydrogeological evidence and other statutory decision-making factors.

Further uncertainty may arise where cultural indicators are not clearly defined, identifiable or measurable, and where thresholds for determining "unacceptable" cultural or social impacts remain undefined. Proponents require objective and measurable criteria to enable effective assessment, reporting, mitigation and compliance.

Advisory Group (policy position 10)

The Water Advisory Committee is proposed to strengthen collaboration on water matters between the State Government, Traditional Owners, industry and the community in the plan area. The Terms of Reference and membership have not been decided. The proposed committee will advise the Minister for Water on water management, water planning or water policy matters relevant to water in the plan area and implementing the final version of this plan.

Given the significance of the Committee's proposed role, AMEC recommends that it be invited to nominate a representative for appointment to the Committee to ensure that the perspectives and practical experience of the exploration sector are appropriately represented.

AMEC further recommends that the Committee's role, functions and Terms of Reference be clearly defined. In particular, the Committee should operate in a manner that supports transparency and stakeholder engagement without creating uncertainty regarding statutory decision-making processes, regulatory responsibilities or the protection of commercially sensitive information.

AMEC notes that further clarity is required regarding how information provided through water licensing, referral and approval processes may be accessed, used and shared by the proposed Advisory Group. Appropriate safeguards should be established to protect confidential commercial information and ensure that information submitted for regulatory purposes is used only for legitimate and transparent decision-making processes.

AMEC also emphasises the importance of ensuring that adequate resources are allocated to water licensing and regulatory functions. Without appropriate resourcing, there is a risk that additional advisory and consultation processes could contribute to delays in assessment and decision-making.

The State Government released its targeted review of Native Title and Cultural Heritage processes, undertaken by Mr Glen Kelly, on 9 June 2026. One of the recommendations,

supported (in principle) by the State Government, was the convening of a Task Force. AMEC recommends that DWER consult with the Kelly Review Task Force.

Recommendations

1. Develop clear and transparent policy guidance regarding the identification, assessment and management of watercourses, wetlands and springs that may be defined as Aboriginal heritage values, including how such matters interact with existing Aboriginal heritage legislation and regulatory processes.
2. Provide greater transparency regarding groundwater allocation methodologies, including the basis for allocation limits, future reservation of water resources and any criteria used to reserve water outside the general licensing pool.
3. Further consult on transparent governance arrangements for the proposed Fitzroy-Derby Aboriginal Water Holding, including clear administration, reporting and evaluation mechanisms.
4. Commit to ongoing monitoring, review and consultation regarding the operation of the Aboriginal Water Holding, particularly if the model is intended to inform broader statewide water policy reforms.
5. Clearly distinguish between consultation, consent-based agreement-making and statutory approval requirements, ensuring proponents understand their obligations and regulatory expectations.
6. Define relevant cultural indicators, assessment methodologies and decision-making criteria, including thresholds for determining unacceptable cultural or social impacts associated with water development proposals.
7. Invite AMEC to nominate a representative for appointment to the proposed Water Advisory Committee to ensure the minerals and exploration sector is appropriately represented.
8. Publish clear Terms of Reference and governance arrangements for the Water Advisory Committee, including its role, functions, reporting obligations and relationship to statutory decision-making processes.
9. Establish safeguards to protect commercially sensitive information provided through water licensing, referral and approval processes.
10. Ensure adequate resourcing of water licensing and regulatory functions so that additional advisory and consultation processes do not contribute to increased assessment timeframes or regulatory delays.

Concluding Remarks

AMEC supports the objective of protecting the Fitzroy River and its environmental, cultural and social values whilst ensuring a sustainable water supply with reliable, affordable and secure access to water by industry.

The draft plan introduces several policy concepts that have potential implications beyond the Fitzroy-Derby plan area. Where DWER intends to establish new policy approaches relating to Aboriginal water holdings, cultural values, consultation requirements or future water allocations, these should be supported by clear guidance, and transparent governance arrangements. It should also be separately and comprehensively consulted upon.

From an approval's perspective, the draft plan also risks creating overlap with existing regulatory processes administered under native title, Aboriginal heritage and environmental legislation. Industry requires certainty regarding how these frameworks interact and which statutory processes are responsible for assessing and managing particular impacts.

Water security remains fundamental to future mineral exploration and mining investment. AMEC supports a water management framework that protects environmental and cultural

values while providing proponents with predictable, transparent and timely pathways for water access and licensing decisions.

AMEC appreciates the opportunity to provide feedback on the draft Fitzroy-Derby Water Resources Management Plan and looks forward to continued engagement as the plan is finalised and implemented.

AMEC encourages DWER to liaise and consult with DPLH to ensure that overlapping with Aboriginal Heritage Regulations does not increase compliance costs for industry and is consistent across Government. AMEC also encourages DWER to liaise closely with the Department of Mines, Petroleum and Exploration to increase their understanding of mining trends in the Fitzroy-Derby region.

For further information contact:

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