



Submission on the
**Consultation Draft Fitzroy–Derby
Water Resources Management Plan**

Submitted to:

Western Australia Department of Water and Environmental Regulation

Consultation period: 1 April – 30 June 2026

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Executive Summary

We welcome the opportunity to comment on the Consultation Draft Fitzroy–Derby Water Resources Management Plan. The Martuwarra (Fitzroy River) is one of Australia’s last great free-flowing river systems and a place of exceptional ecological, cultural, social and economic significance. The river supports globally significant biodiversity, including one of the world’s most important remaining populations of critically endangered freshwater sawfish. It sustains the cultures and responsibilities of Bunuba, Gooniyandi, Nyikina Mangala, Walmajarri, Wangkajungka, Yawuru and other Traditional Owners across the catchment, responsibilities that have endured for tens of thousands of years. It supports regional communities, pastoral enterprises, tourism and the internationally significant coastal ecosystems of King Sound.

The draft plan contains several important and welcome commitments, particularly the commitment to prohibit dams on the Fitzroy River and its tributaries and the commitment to prohibit further surface-water extraction except in limited circumstances. These measures reflect decades of advocacy by Traditional Owners, local communities, scientists and conservation organisations and should be retained in the final plan.

We strongly support the plan’s recognition of the ecological, cultural, heritage and social significance of the Martuwarra and its acknowledgement that groundwater and surface-water systems are interconnected. However, we have significant concerns regarding the plan’s groundwater allocation framework, its governance arrangements, and the adequacy of its long-term protective mechanisms. These concerns are summarised below.

First, the plan proposes to make approximately 50 GL per year available for future groundwater licensing. We consider this figure insufficiently precautionary given the acknowledged scientific uncertainties regarding recharge rates, groundwater-surface water connectivity, groundwater-dependent ecosystems and the cumulative impacts of large-scale extraction. The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development found insufficient information to assess impacts even from a modest 20-well appraisal project in the

catchment. If these uncertainties cannot support an adequate assessment of a small project, they cannot support the allocation of 50 GL per year across the broader catchment.

Second, the plan's staged groundwater development mechanism (Policy 6), while presenting as precautionary, creates a ratchet risk: once initial allocations are made, economic and political pressure to expand future stages intensifies. The plan does not specify what scientific milestones must be met before subsequent allocation stages are opened, nor does it prevent multiple simultaneous applications from aggregating to volumes far exceeding the nominal 3 GL per-application cap.

Third, the 'public interest' exception to the prohibition on surface-water extraction in Policy 1 requires careful scrutiny. As drafted, this exception could be interpreted to permit industrial water uses associated with future unconventional gas development, including dust suppression, camp water supply and process water. The final plan should define essential public purposes narrowly and explicitly exclude industrial purposes from this exception.

Fourth, the proposed Water Advisory Committee, while welcome, is an advisory body only. Traditional Owners should have a formal decision-making role—not merely a consultative one—in water allocation, licensing assessment, environmental threshold-setting and adaptive management responses.

Fifth, the plan's groundwater quality protections are inadequate for a catchment facing the risk of unconventional gas development. The plan addresses groundwater quantity but provides limited framework for the protection of groundwater quality. Pre-development baseline monitoring, minimum water quality standards and mandatory contamination risk assessment should be required.

Sixth, the plan remains a policy document subject to future amendment or weakening. The ecological, cultural and National Heritage significance of the Martuwarra warrants consideration of durable legislative protection, developed in partnership with Traditional Owners and the Martuwarra Fitzroy River Council.

We urge the Department to strengthen the final plan in the ways detailed in this submission.

About Beyond Gas Network

Beyond Gas Network is a community-based network advocating for a rapid and equitable transition away from fossil gas and towards a clean, sustainable and climate-safe future. We work with communities, Traditional Owners, environmental organisations, researchers and decision-makers to reduce the environmental, cultural, economic and climate impacts associated with gas extraction, transport and use.

We have a particular interest in proposals that may expand unconventional gas extraction, increase dependence on fossil fuels, threaten culturally significant landscapes and waterways, or undermine Australia's climate commitments.

Our interest in this water management plan arises directly from our mandate. Unconventional gas development is inherently water-intensive and poses documented risks to groundwater systems through the use of large volumes of water for hydraulic fracturing, the generation and storage of contaminated wastewater and flowback fluids, and the risk of well integrity failures affecting aquifers. Any water management plan for a catchment subject to unconventional gas exploration and appraisal is therefore directly relevant to our work.

The proposed Valhalla Gas Exploration and Appraisal Project, operated by Bennett Resources Pty Ltd (a subsidiary of Black Mountain Energy), is located within the Fitzroy Trough within the plan area. Water used for hydraulic fracturing and related activities at this and any future project would fall within the scope of water licensing under this plan. The adequacy of this plan's groundwater protections therefore directly determines the adequacy of protections for water resources at risk from gas development.

The Martuwarra catchment is of national significance. Decisions concerning water allocation have implications not only for local communities and ecosystems but also for broader questions of biodiversity conservation, cultural heritage protection, climate resilience and sustainable regional development. We therefore welcome the opportunity to contribute to this important consultation.

Part 1 – Heritage Values and Protection of the Free-Flowing River

Overview of the Draft Plan

The draft Fitzroy–Derby Water Resources Management Plan represents the first integrated water planning framework for the Fitzroy River catchment and associated groundwater systems. The plan seeks to balance protection of the free-flowing Fitzroy River system with future groundwater-based economic development.

Among other measures, it proposes:

- continuation of the State Government's commitment to prohibit dams on the Fitzroy River and its tributaries;
- severe restrictions on future surface-water extraction, subject to limited public-interest exceptions;
- groundwater allocation limits totalling approximately 75.7 GL per year, with approximately 50 GL available for new licensing;
- establishment of a Fitzroy–Derby Aboriginal Water Holding of approximately 25 GL per year;
- a framework for future groundwater licensing, including a staged development approach;
- creation of a Water Advisory Committee; and
- adaptive management arrangements intended to respond to future information and monitoring results.

The draft plan recognises a number of important principles. It acknowledges that groundwater and surface-water systems are interconnected. It recognises the importance of maintaining groundwater discharge to rivers, pools, wetlands and springs. It recognises the significance of ecological, cultural, heritage and social values. It acknowledges Traditional Owner knowledge and responsibilities. We strongly support these principles. The key question is whether the proposed allocation framework is sufficiently precautionary to ensure that these objectives are achieved in practice.

National Heritage Values and Matters of National Environmental Significance

The Martuwarra forms part of the West Kimberley National Heritage Place, one of Australia's most significant cultural and natural landscapes recognised under the Environment Protection and Biodiversity Conservation Act 1999 (Cth). The National Heritage listing recognises the exceptional natural, cultural, aesthetic and Indigenous heritage values of the region, including:

- the ecological integrity of the Fitzroy River system;
- the cultural landscapes associated with the custodianship of Bunuba, Gooniyandi, Nyikina Mangala, Walmajarri, Wangkajungka, Yawuru and related Traditional Owner groups;
- the continuing relationship between people, water and Country across the catchment and into King Sound; and
- the outstanding environmental values of one of Australia’s last largely intact tropical river systems.

Critically, these values are not confined to individual sites. Many arise from the functioning of the river system itself. They depend upon natural hydrological processes, seasonal flooding, groundwater discharge, ecological connectivity and the ongoing health of the catchment as an integrated whole. Protection of National Heritage values therefore requires protection of the hydrological processes that sustain those values.

This is particularly important because many groundwater-dependent ecosystems contribute directly to the ecological and cultural significance of the National Heritage Place. Groundwater-fed springs, wetlands, river pools and floodplain systems support biodiversity, cultural practices and landscape characteristics that form part of the recognised heritage values of the region.

The same principle applies to Matters of National Environmental Significance under Commonwealth law. The Martuwarra catchment supports populations of species protected under the EPBC Act, including the critically endangered freshwater sawfish. Scientific research indicates that freshwater sawfish rely upon natural flood cycles and access to floodplain habitats for successful recruitment and breeding. Alterations to hydrological processes may therefore affect one of the species’ most important remaining strongholds anywhere in the world.

The National Heritage significance of the Martuwarra strengthens the argument for precaution. Where uncertainty exists regarding groundwater-surface water connectivity or the impacts of groundwater extraction on these systems, precautionary management is warranted. The potential consequences of environmental degradation extend beyond local impacts: they may affect values recognised as nationally significant under Commonwealth law, triggering obligations under the EPBC Act. The final plan should ensure that protection of National Heritage values remains a central and non-negotiable consideration in all water allocation decisions.

Support for No Dams and No Further Surface-Water Extraction

We strongly support the draft plan’s commitment to prohibit dams on the Fitzroy River and its tributaries (Policy 1) and to prohibit further surface-water extraction except in limited circumstances. These commitments are among the most important elements of the draft plan and should be retained without weakening.

The Martuwarra’s hydrology remains largely intact — seasonal flooding, natural variability and connectivity between rivers, floodplains, wetlands, groundwater systems and estuarine environments continue to function at a landscape scale. Floodwaters replenish wetlands, sustain riparian vegetation, support fish breeding and migration, recharge aquifers and transport nutrients to downstream ecosystems, including the internationally significant mudflats and marine environments of King Sound. This ecological functioning is precisely what the no-dams and no-extraction commitments exist to protect, and it is why those commitments must be retained without weakening.

The ecological significance of these flood processes is particularly important for species such as the critically endangered freshwater sawfish. Successful recruitment depends upon large flood events

providing access to breeding and nursery habitats. Any reduction in the frequency, duration or magnitude of these events would threaten one of the most important remaining populations of the species.

The cultural significance of maintaining natural flows is equally fundamental. Traditional Owners have consistently and formally affirmed that the Martuwarra is not simply a water resource but a living ancestral being with cultural, spiritual and legal significance. The Bunuba People's Fitzroy River Declaration and the positions of the Martuwarra Fitzroy River Council reflect enduring commitments to protect the river from development that would alter natural water flows. Water movement, seasonal flooding and connectivity between different parts of Country are fundamental components of cultural landscapes that have persisted for millennia.

Australia's experience elsewhere demonstrates the consequences of failing to protect river systems before development occurs. Across the Murray–Darling Basin, construction of dams, diversion structures and irrigation infrastructure progressively transformed once-connected river systems into heavily regulated waterways. The resulting environmental degradation, fish kills, wetland decline and cultural impacts continue to impose enormous costs. The Martuwarra presents an opportunity to avoid repeating those mistakes.

Concern: The 'Public Interest' Exception

Amendment recommended – Policy 1 exception

The plan prohibits further surface-water extraction except in 'essential public purposes' and 'public interest' circumstances. These terms require precise definition to prevent future governments from interpreting them to permit industrial water uses associated with gas or other resource development. The final plan should define both terms narrowly, provide illustrative examples limited to essential community water supply and similar essential public services, and explicitly exclude industrial, commercial or resource extraction purposes from the scope of these exceptions.

Policy 1 restricts further surface-water licensing except for 'essential public purposes' or where 'in the public interest.' These exceptions are potentially broad. Future governments or licence applicants could seek to characterise water use associated with resource development (including unconventional gas development) as falling within the public interest, for example by characterising economic development or employment generation as public benefits.

Without clear definitional limits, these exceptions risk becoming pathways for precisely the kind of surface-water extraction the policy intends to prevent. The final plan should address this risk by clearly defining 'essential public purpose' and 'public interest,' providing a non-exhaustive list of circumstances that may qualify, and explicitly stating that the extraction of surface water for industrial processes, resource extraction or commercial development does not constitute an essential public purpose or qualify as being in the public interest for the purposes of Policy 1.

For this reason, the final plan should:

- retain the prohibition on dams on the Fitzroy River and its tributaries without qualification;
- retain the prohibition on additional surface-water extraction;
- define 'essential public purpose' and 'public interest' narrowly, with examples limited to community water supply and essential public infrastructure;
- explicitly exclude industrial, commercial or resource-extraction purposes from those exceptions;

- require independent assessment of any future proposal that may affect natural flow regimes; and
- recognise maintenance of natural flood regimes as a primary water-management objective throughout the catchment.

Part 2 – Groundwater, Scientific Uncertainty and Future Development Risk

Groundwater, Scientific Uncertainty and the Precautionary Principle

While the draft plan provides strong protection for surface-water resources, groundwater remains the major unresolved issue. The draft plan proposes groundwater allocation limits totalling approximately 75.7 GL per year, with approximately 50 GL per year remaining available for future licensing (25 GL for general licensing and 25 GL reserved for the Aboriginal Water Holding). The central question is whether current scientific understanding is sufficient to justify opening substantial additional groundwater resources to future development.

We do not believe that it is.

The issue is not whether groundwater studies have been undertaken. Significant work has been conducted by government agencies, researchers, consultants and Traditional Owners over many years. The issue is whether the existing level of understanding is sufficient to confidently predict the long-term consequences of large-scale groundwater extraction across a catchment of exceptional ecological, cultural and national significance. The draft plan itself acknowledges substantial uncertainties regarding:

- groundwater recharge rates and the reliability of the 40 per cent of estimated recharge methodology under different climatic conditions;
- groundwater discharge to rivers, wetlands and springs;
- groundwater-surface water connectivity across the catchment;
- aquifer-to-aquifer connectivity, including between the Alluvial, Devonian Reef and other aquifer systems;
- the location, extent and water dependence of groundwater-dependent ecosystems;
- ecological thresholds below which significant and potentially irreversible damage to dependent ecosystems would occur;
- cumulative impacts from multiple developments occurring simultaneously across the catchment; and
- interactions between groundwater extraction and a changing climate.

These uncertainties are particularly important because groundwater systems operate over large spatial scales and long timeframes. Impacts arising from groundwater extraction in one location may emerge many kilometres away and many years later. Groundwater impacts are often difficult to detect until long after extraction begins. Water-table declines may occur gradually. Springs, wetlands and groundwater-fed river pools may deteriorate incrementally. Ecological consequences may not become apparent until significant damage has already occurred. Recovery can be extremely slow or may not occur at all.

In highly variable systems such as the Martuwarra, recharge events depend upon episodic flood cycles. If groundwater systems are over-allocated or damaged, restoration may take decades. These characteristics make groundwater management particularly dependent upon the precautionary principle.

The precautionary principle provides that where there is a threat of serious or irreversible environmental harm, a lack of complete scientific certainty should not be used as a reason for

postponing measures to prevent environmental degradation. All of the circumstances that justify a precautionary approach are present in the Martuwarra catchment. The burden should not fall on communities or Traditional Owners to prove that groundwater extraction will cause harm after extraction has commenced. Rather, proponents and regulators should demonstrate with a high degree of confidence that proposed extraction can occur without causing unacceptable impacts.

Concern: The 50 GL Available Figure and its Methodological Basis

Amendment recommended – groundwater allocation quantum

The plan sets groundwater available for new licensing at approximately 50 GL per year (25 GL general, 25 GL Aboriginal Water Holding), derived from limits at 40 per cent of estimated recharge per aquifer. Given acknowledged uncertainties in recharge estimation and the inadequacy of scientific information identified by the IESC, this quantum should be substantially reduced pending completion of a comprehensive independent hydrogeological and hydro-ecological research program. The plan should specify the scientific evidence that would be required before any future increase in available allocation is considered.

The plan sets allocation limits at 40 per cent of estimated rainfall recharge per aquifer for the Greater Derby and Fitzroy subareas, resulting in approximately 50 GL per year being available for future licensing. This methodology carries significant risks in the current state of knowledge. Recharge estimates are based on historical conditions. Climate change is likely to alter recharge rates, potentially significantly. If recharge declines under future conditions, allocations that appeared safe under historical assumptions may prove excessive.

Furthermore, the 40 per cent figure implies that 60 per cent of recharge will remain in the aquifer system to support environmental flows and groundwater-dependent ecosystems. However, the plan acknowledges that the extent, location and water requirements of groundwater-dependent ecosystems across the catchment remain incompletely understood. Without that information, there is no reliable basis for assuming that 40 per cent extraction leaves sufficient water for ecological and cultural values.

The final plan should reduce the volume of groundwater available for new licensing until a comprehensive independent hydrogeological and hydro-ecological research program has been completed, and should specify the research milestones and evidentiary standards that would need to be met before any future increase in available allocation is considered.

Staged Development and the Ratchet Risk

The plan's staged groundwater development approach (Policy 6), which limits individual applications to 3 GL per year and envisages incremental expansion of allocation, presents as a precautionary mechanism. However, it carries a significant ratchet risk that the plan does not adequately address.

Amendment recommended – Policy 6 ratchet risk

Policy 6's per-application 3 GL cap does not prevent multiple simultaneous applications from aggregating to much larger total volumes. The plan should specify a catchment-wide annual limit on total new allocation and require that applications be considered cumulatively, not in isolation. More importantly, the plan should specify the scientific milestones that must be achieved before subsequent development stages are opened, and should prevent economic or political pressure from substituting for evidence in stage progression decisions.

Experience from other water-stressed catchments demonstrates that staged development frameworks can, in practice, function as a mechanism for incremental over-allocation rather than genuine precaution. Once the first stage of groundwater extraction is established, several dynamics tend to accelerate further development: proponents with existing licences advocate for expansion; infrastructure investment creates commercial pressure for cost recovery; governments face political pressure to facilitate further economic activity; and the existence of operating developments normalises further extraction.

The plan does not specify what scientific evidence or monitoring outcomes would need to be established before subsequent allocation stages are opened. Without clear preconditions for stage progression, the staged approach may provide an appearance of precaution without the substance. The final plan should specify: the monitoring milestones and scientific evidence required before each subsequent stage can be opened; how cumulative impact assessments across concurrent applications will be conducted; how the total volume of simultaneously active allocation applications will be tracked and capped; and what process would apply if monitoring reveals that extraction in an earlier stage is causing environmental harm before a subsequent stage is opened.

Valhalla, the Canning Basin and Future Development Risk

The proposed Valhalla Gas Exploration and Appraisal Project illustrates why a precautionary approach to groundwater management is necessary. The proposal, advanced by Bennett Resources Pty Ltd (a subsidiary of Black Mountain Energy) within the Fitzroy Trough inside the plan area, involves drilling and hydraulically fracturing up to 20 wells to assess the commercial viability of unconventional gas resources.

Although the project is frequently described as an exploration and appraisal proposal, it is important to understand its broader significance. The purpose of appraisal drilling is to determine whether larger-scale commercial development may be feasible. The environmental significance of the proposal cannot therefore be assessed solely in terms of the impacts of 20 wells. It represents a potential pathway toward substantially larger future development – development for which water would need to be licensed under this plan.

Of particular relevance to this water plan are the findings of the Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development (IESC). In its assessment of the Valhalla proposal, the Committee concluded that the information provided by the proponent was insufficient to adequately assess impacts on groundwater resources, groundwater-dependent ecosystems, surface-water systems and water-related assets. The Committee identified significant uncertainties regarding groundwater systems, groundwater flow pathways, groundwater-surface water connectivity, groundwater-dependent ecosystems, cumulative impacts and potential impact pathways associated with project activities.

These findings are highly relevant to the draft water plan. If Australia's specialist scientific advisory body considers that there is insufficient information to assess impacts associated with a relatively small appraisal project in this catchment, it is difficult to justify opening large volumes of groundwater for future allocation across the broader catchment on the basis of the same inadequate information.

The significance of the Valhalla proposal extends beyond the immediate project area. It forms part of broader efforts to assess unconventional gas resources within the Canning Basin, which covers approximately 450,000 square kilometres and is one of Australia's largest sedimentary basins. This broader context is important because groundwater allocation decisions made today may influence the scale and extent of future industrial development across large parts of the Kimberley. Experience from other unconventional gas basins demonstrates that development often proceeds incrementally:

exploration wells, appraisal wells, pilot projects, and eventually production fields, each requiring more water, each generating more wastewater, and each increasing cumulative groundwater risk.

The final plan should explicitly acknowledge this risk. Groundwater allocation decisions should not be assessed solely against current demand projections but should also consider the cumulative water demands associated with potential future industrialisation of the catchment. Allocations that appear appropriate for agricultural or pastoral water use may be wholly inadequate as protections if they are drawn upon by large-scale industrial gas production.

Groundwater Quality: Fracking Chemicals, Wastewater and Flood Risk

We are concerned that the draft plan does not adequately address groundwater quality risks associated with future unconventional gas development. The plan's allocation framework is principally directed at groundwater quantity. Its treatment of groundwater quality is limited. For a catchment facing active unconventional gas exploration, this is a significant gap.

Hydraulic fracturing requires the use of water, chemicals and specialised additives. It generates wastewater and flowback fluids requiring storage, transport, treatment or disposal. While regulatory frameworks seek to manage these risks, contamination incidents can occur through accidental spills, equipment failures, well integrity failures, wastewater storage failures and transport accidents. The issue is not whether contamination is inevitable. The issue is whether the consequences of contamination in a system of such ecological, cultural and national significance justify precautionary groundwater quality protections within the water management plan itself.

The Martuwarra catchment presents additional challenges because of its highly dynamic hydrology. Large flood events are not exceptional occurrences but defining characteristics of the river system. The same flood processes that recharge aquifers, replenish wetlands and sustain ecological productivity may also influence the movement of contaminants in the event of accidental releases. The IESC identified unresolved questions regarding groundwater-surface water connectivity and impact pathways in relation to the Valhalla proposal. Where groundwater flow pathways and connectivity remain incompletely understood, confidence in predicting contaminant movement is necessarily limited.

Amendment recommended – groundwater quality

The final plan should explicitly recognise that protection of groundwater quality is as important as protection of groundwater quantity. It should require pre-development baseline groundwater quality monitoring across the catchment, establish minimum groundwater quality standards for each aquifer, require groundwater quality risk assessment as part of all licence applications for water to be used in resource extraction activities, and establish a contamination response framework with clear trigger thresholds and mandatory notification obligations.

Climate Change and Water Security

Climate change represents an additional source of uncertainty for future water management in the Kimberley. Scientific projections indicate that climate change is likely to increase the frequency and severity of extreme weather events, alter rainfall patterns and affect hydrological processes across northern Australia. While uncertainty remains regarding the precise nature of future changes, this uncertainty reinforces rather than diminishes the need for precaution.

Groundwater allocation decisions made today will influence the resilience of the catchment for decades into the future. Water resources that appear available under historical climatic conditions may prove less reliable under future conditions. The plan's allocation methodology is based on 40 per cent of estimated rainfall recharge per aquifer. If rainfall recharge declines under climate change

scenarios – a plausible outcome for northern Australia under many modelled futures – then allocations set against historical recharge estimates may prove unsustainable.

Maintaining substantial groundwater reserves should therefore be regarded as a climate adaptation strategy. Conservative allocation limits provide a buffer against future uncertainty. Over-allocation reduces flexibility and increases vulnerability, both for water-dependent ecosystems and for the human communities, pastoral enterprises and Traditional Owners who depend upon them.

The final plan should explicitly recognise climate resilience as a key objective of groundwater management. Allocation limits should be set with explicit climate buffers. The plan's adaptive management framework should specify how allocation limits will be reviewed and adjusted if climate modelling or monitoring data indicates that historical recharge assumptions are no longer reliable.

Part 3 – Governance, Monitoring and Long-Term Protection

Traditional Owner Rights, UNDRIP and Indigenous Water Justice

The draft plan contains welcome recognition of Traditional Owner knowledge, responsibilities and cultural values. The Martuwarra catchment is the Country of Bunuba, Gooniyandi, Nyikina Mangala, Walmajarri, Wangkajungka, Yawuru and related groups, whose responsibility to care for Country predates European settlement by tens of thousands of years. The Martuwarra Fitzroy River Council represents the collective interests of many of these groups in protecting the river.

However, the final plan must go further than recognition and consultation. Traditional Owners are not simply one stakeholder group among many. They are the custodians of Country, with enduring responsibilities to protect land, water and culture, and they possess knowledge accumulated through tens of thousands of years of observation, management and connection to place. Recognition of these realities requires genuine participation in decision-making, not merely an advisory role.

The United Nations Declaration on the Rights of Indigenous Peoples, which Australia supports, recognises the rights of Indigenous peoples to maintain and strengthen their spiritual relationship with traditionally owned lands, waters and resources, and to participate in decision-making affecting those resources. The Declaration also recognises the principle of free, prior and informed consent in relation to decisions that affect Indigenous peoples and their territories. These principles should be reflected in the structure of the final plan's governance arrangements, not merely acknowledged in its preamble.

Traditional Owners should have a meaningful and formal decision-making role in:

- groundwater allocation limits and any future review or amendment of those limits;
- licensing assessments, particularly those involving large volumes or sensitive locations;
- environmental threshold-setting and the identification of culturally significant water places;
- monitoring program design and the incorporation of Traditional Owner knowledge into monitoring protocols;
- adaptive management responses, including suspension or reduction of licences where environmental thresholds are breached; and
- governance of the Aboriginal Water Holding.

The final plan should also recognise that cultural values are not limited to specific sites. Many cultural values arise from relationships between places, water movement, seasonal processes and

the overall health of Country. Protecting those values requires protection of hydrological processes rather than simply protection of individual locations. Assessments of impacts on cultural values should therefore be conducted at a landscape scale, in partnership with Traditional Owners, and should draw upon both Traditional Owner knowledge systems and contemporary scientific methods.

Aboriginal Water Holding: Support and Governance Concerns

We support the proposal to establish a Fitzroy–Derby Aboriginal Water Holding. The creation of an Aboriginal Water Holding represents an important recognition that Traditional Owners should be able to participate in economic opportunities associated with water resources and should not be excluded from future development opportunities by historical allocation decisions. The proposal is consistent with broader national discussions concerning Indigenous water justice and the need to address the historic exclusion of First Nations peoples from water allocation frameworks.

However, the effectiveness of the Aboriginal Water Holding will depend upon its governance arrangements and how those arrangements are structured. The draft plan reserves approximately 25 GL per year for the Aboriginal Water Holding but provides limited detail regarding how the holding will be governed, by whom and under what principles.

Amendment recommended – Aboriginal Water Holding governance

The plan should specify that governance arrangements for the Aboriginal Water Holding will be co-designed with and ultimately determined by the relevant Traditional Owner groups, through a process led by the Martuwarra Fitzroy River Council. The plan should specify that Traditional Owners will determine: how water within the holding is governed; which Traditional Owner groups have access and in what proportions; what decision-making processes apply to licensing within the holding; and whether and under what conditions third parties may be involved in the use or management of water held within the Aboriginal Water Holding. The plan should clarify what happens to unallocated water within the Aboriginal Water Holding if Traditional Owners choose not to licence it, and should specify that unallocated water in the Aboriginal Water Holding does not revert to the general licensing pool.

Of particular importance is the question of whether the Aboriginal Water Holding could become a vehicle for third-party commercial development that does not reflect the genuine priorities of Traditional Owners. The final plan should ensure that governance structures support genuine self-determination rather than creating mechanisms through which water effectively controlled by Traditional Owners can be accessed by external parties.

Importantly, the existence of an Aboriginal Water Holding should not be used as justification for increasing overall groundwater allocation limits. The purpose of the Aboriginal Water Holding should be to improve equity within water allocation arrangements, not to facilitate greater overall extraction from groundwater systems. The ecological sustainability of groundwater resources must remain the primary consideration. If the total scientifically supportable groundwater extraction volume is lower than the plan currently proposes, that reduction should come from the general licensing pool, not from the Aboriginal Water Holding.

Water Advisory Committee: Governance Gaps

The draft plan proposes a Water Advisory Committee (Policy 10) with representation from Traditional Owners, industry and the community. This initiative is welcome. However, the plan's current proposal for the WAC has significant gaps that limit its effectiveness as a governance mechanism.

Amendment recommended – Water Advisory Committee

The Water Advisory Committee requires strengthened governance arrangements to be effective. The final plan should specify: the minimum number of Traditional Owner representatives on the WAC and that they hold the majority of positions; the WAC's powers and whether its recommendations must be considered and responded to in writing by the Department; the WAC's access to independent scientific and legal advice funded by the Department; the WAC's role in annual reporting on plan implementation; whether WAC recommendations on adaptive management triggers are binding; and the WAC's role in reviewing licence applications involving large groundwater volumes or sensitive locations.

As currently described, the WAC appears to be an advisory body with no formal power to influence allocation decisions, licence grant decisions or adaptive management responses. Advisory bodies that lack formal powers, guaranteed resources and transparent reporting obligations frequently become ineffective over time. The final plan should specify the WAC's powers, its access to independent expert advice, the Department's obligations when the WAC makes recommendations, and how the WAC's proceedings and advice will be made publicly available.

Traditional Owner representation on the WAC should not be a minority position. Given that the Martuwarra is the Country of multiple Traditional Owner groups with enduring responsibilities to care for water, and given the plan's stated commitment to culturally-informed collaborative management, Traditional Owners should hold the majority of positions on the WAC and should have meaningful influence over its proceedings and conclusions.

Monitoring, Compliance and the WA Auditor-General Findings

The success of the final plan will depend not only upon allocation limits but also upon the effectiveness of monitoring, compliance and enforcement arrangements. Without robust monitoring and compliance systems, even well-designed allocation frameworks can fail to protect the values they are intended to conserve.

We note the findings of the 2025 Western Australian Auditor-General's performance audit into the regulation of water licences, which highlighted concerns regarding aspects of monitoring, compliance and regulatory oversight. These findings reinforce the importance of establishing strong governance arrangements from the outset rather than attempting to strengthen them after problems emerge.

The draft plan places considerable emphasis on adaptive management. Adaptive management can be effective where monitoring systems are capable of identifying impacts early and where regulators have sufficient authority, resources and willingness to intervene when required. However, adaptive management should not become a substitute for precaution. If impacts are only identified after ecological decline has occurred, opportunities for effective intervention may be limited and some forms of damage may be irreversible.

The final plan should commit to:

- comprehensive groundwater level and quality monitoring across the catchment, including monitoring bores in proximity to all groundwater-dependent ecosystems;
- long-term monitoring of groundwater-dependent ecosystems, including springs, wetlands, river pools and floodplain systems, using both ecological indicators and Traditional Owner knowledge;
- monitoring of culturally significant water places in partnership with the relevant Traditional Owner groups and the Martuwarra Fitzroy River Council;

- publicly accessible reporting of groundwater levels, water quality and extraction volumes on a regular basis, disaggregated by aquifer and subarea;
- transparent publication of licence conditions, compliance outcomes and any enforcement actions;
- clear environmental and cultural thresholds that trigger mandatory management responses, including licence reduction or suspension, not merely further review;
- trigger-based adaptive management reviews in addition to calendar-based reviews, so that emerging monitoring evidence can prompt rapid response regardless of the review schedule; and
- independent auditing of monitoring and compliance systems with public reporting of audit findings.

The community should be able to understand how much water is being extracted, where it is being extracted, whether environmental and cultural objectives are being achieved, and what the regulator is doing about identified problems. Transparency is essential for accountability and public confidence.

Long-Term Legal Protection of the Martuwarra

The draft plan represents an important step towards protection of the Martuwarra. However, it remains fundamentally a policy document. Policy documents can be amended, weakened or replaced by future governments, and individual ministers retain broad discretion under water licensing legislation to depart from plan provisions in particular circumstances. Consequently, the final plan should be viewed not as the end point of protection efforts but as an important milestone towards stronger and more durable protection arrangements.

The ecological, cultural and heritage significance of the Martuwarra warrants long-term protection mechanisms that extend beyond administrative policy. The river system is recognised as part of the West Kimberley National Heritage Place. It supports values of national and international significance. It remains one of the last large free-flowing river systems in Australia. These values justify consideration of additional legal protections developed in partnership with Traditional Owners.

We encourage the Western Australian Government to work with Traditional Owners and communities to explore mechanisms that could provide enduring legal protection for the Martuwarra and its connected groundwater systems. Potential mechanisms include:

- dedicated legislation establishing the Martuwarra as a protected river system with statutory water management obligations, modelled on comparable legislation in other Australian jurisdictions;
- strengthened environmental safeguards under the Environmental Protection Act 1986 (WA), including environmental protection policies or conservation reserves extending to the river corridor and connected groundwater systems;
- co-governance arrangements that give Traditional Owners and the Martuwarra Fitzroy River Council statutory roles in water management decisions, not merely advisory roles;
- referral of the groundwater management plan to the Commonwealth Minister under the EPBC Act, given the plan's potential impacts on National Heritage values and listed threatened species; and
- treaty-based or formal agreement frameworks between the State and the relevant Traditional Owner groups establishing shared governance and protective obligations.

The objective should be to ensure that future governments cannot progressively weaken protections through incremental administrative decisions. Long-term protection should reflect the long-term significance of the river.

Recommendations

We recommend that the final Fitzroy–Derby Water Resources Management Plan:

A. Protection of the River

1. Retain the commitment to prohibit dams on the Fitzroy River and its tributaries without qualification.
2. Retain the commitment to prohibit further surface-water extraction except in clearly and narrowly defined public-interest circumstances.
3. Define ‘essential public purpose’ and ‘public interest’ narrowly and explicitly exclude industrial, commercial and resource-extraction purposes from the scope of those exceptions to Policy 1.
4. Recognise maintenance of natural flood regimes as a primary water-management objective throughout the catchment.
5. Require independent assessment of any future proposal that may affect natural flow regimes.

B. Groundwater Management

6. Adopt a substantially more precautionary approach to groundwater allocation.
7. Reduce groundwater volumes available for future licensing until a comprehensive independent hydrogeological and hydro-ecological research program has been completed.
8. Specify the scientific evidence and monitoring outcomes required before any future increase in available allocation is considered.
9. Establish environmental and cultural thresholds that trigger mandatory review, reduction or suspension of groundwater extraction.
10. Ensure groundwater allocation decisions are guided by protection of ecological, cultural, heritage and social values rather than by economic demand projections.

C. Staged Development and Cumulative Risk

11. Specify the scientific milestones and monitoring evidence required before each subsequent stage of groundwater allocation can be opened under Policy 6.

12. Establish a catchment-wide cap on total annual new groundwater allocation to prevent multiple simultaneous applications from aggregating beyond the stated per-application limit.
13. Require cumulative impact assessment of all concurrent and proposed licence applications before further allocations are granted.
14. Commit to a comprehensive independent hydrogeological and hydro-ecological research program prior to opening subsequent allocation stages.

D. Unconventional Gas and Groundwater Quality

15. Explicitly recognise unconventional gas development as a cumulative risk to both groundwater quantity and quality within the plan area.
16. Require pre-development baseline groundwater quality monitoring across the catchment before any water licences for resource extraction activities are granted.
17. Establish minimum groundwater quality standards for each aquifer and require groundwater quality risk assessment as part of all licence applications for resource-extraction water uses.
18. Require independent scientific review of proposals involving significant groundwater extraction or groundwater quality risk.

E. Traditional Owner Rights and Governance

19. Strengthen Traditional Owner decision-making roles throughout water governance arrangements, including formal powers over allocation decisions, licensing assessments and adaptive management responses.
20. Ensure the Water Advisory Committee has a Traditional Owner majority, access to independent expert advice and formal powers including the right to require written responses from the Department.
21. Ensure governance of the Aboriginal Water Holding is determined in partnership with, and ultimately by, the relevant Traditional Owner groups and the Martuwarra Fitzroy River Council.
22. Specify that unallocated water within the Aboriginal Water Holding does not revert to the general licensing pool.
23. Incorporate Traditional Owner knowledge and the Martuwarra Fitzroy River Council's positions into monitoring, assessment, environmental threshold-setting and adaptive management processes.

F. Monitoring, Compliance and Transparency

24. Establish comprehensive groundwater level and quality monitoring across the catchment, publicly reported on a regular basis.
25. Publish groundwater monitoring data, extraction volumes, licence conditions and compliance outcomes in accessible formats.

26. Establish trigger-based adaptive management reviews in addition to calendar-based reviews, linked to monitored environmental and cultural thresholds.
27. Undertake independent audits of monitoring and compliance arrangements and publicly report audit findings.
28. Review the effectiveness of the plan within five years of finalisation, and at any earlier time that monitoring triggers an adaptive management response.

G. Long-Term Protection

29. Commit to development of stronger, durable legal protections for the Martuwarra and connected groundwater systems, in partnership with Traditional Owners.
30. Work with Traditional Owners and the Martuwarra Fitzroy River Council to develop enduring co-governance and protection arrangements.
31. Explore with the Commonwealth the application of EPBC Act protections to the groundwater management framework given its potential impacts on National Heritage values and listed threatened species.

Conclusion

The Martuwarra remains one of the last great free-flowing river systems in Australia. It sustains culture, communities, biodiversity and Country on a scale that is increasingly rare both nationally and globally. The draft plan contains important and welcome commitments, particularly the commitment to prohibit dams and further surface-water extraction. These commitments should be retained and strengthened.

However, significant concerns remain regarding groundwater allocation and the future development pathways that the plan may enable. The current scientific understanding remains insufficient to confidently predict the cumulative impacts of large-scale groundwater extraction across the catchment. The findings of the Independent Expert Scientific Committee in relation to the Valhalla proposal reinforce that conclusion. Those uncertainties should lead to greater protection, not greater allocation.

The plan's staged development mechanism requires more robust preconditions if it is to function as genuine precaution rather than as a pathway for incremental over-allocation. The plan's governance arrangements require strengthening if Traditional Owners are to exercise real decision-making power rather than an advisory role. The plan's groundwater quality protections require development if the catchment is to be protected against the risks associated with unconventional gas development.

The final plan must be assessed not only against today's water demands but against the future development pathways it enables. Australia has already witnessed the consequences of failing to protect river systems before development occurs. The Murray–Darling Basin demonstrates the environmental, cultural and economic costs of over-allocation and delayed intervention. The Martuwarra presents a rare opportunity to choose a different path.

We urge the Western Australian Government to strengthen the final plan by adopting a more precautionary approach to groundwater allocation, strengthening Traditional Owner decision-making, improving scientific understanding before significant extraction occurs, protecting groundwater quality as well as quantity, and committing to long-term legal protection of the river and its connected groundwater systems.

The river still flows freely.

That gives this generation a rare opportunity to protect something before it is damaged rather than attempting to restore it afterwards.

The final plan should seize that opportunity.