

Consultation draft Fitzroy-Derby water resources management plan: policy and guidance

Submission by the Conservation Council of WA

30 June 2026

About the Conservation Council of WA

The Conservation Council of WA (CCWA) is the state's foremost non-profit, non-government conservation organisation representing close to 100 environmental organisations across Western Australia, with tens of thousands of engaged individuals state-wide. This broad collective of like-minded groups and individuals creates a vibrant and passionate community, dedicated to the conservation of our unique and diverse state.

CCWA has been a prominent and forthright voice for conservation for more than 50 years working directly with the government, media, industry, community groups, and political parties to promote a more sustainable WA and to protect our natural environment.

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Acknowledgement of Country

The Conservation Council of WA respectfully acknowledges the Whadjuk People of the Noongar nation, along with the Traditional Owners of all Countries where it works. We pay our respects to Elders past and present. CCWA seeks to always walk alongside our Aboriginal partners, recognising their continued connection through land, sea, culture and community.

Submitted to:

Department of Water and Environmental Regulation

Via the consultation hub

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Background

The State Government set the intent and pathway for this plan when it released Water allocation planning in the Fitzroy – policy position paper (Government of Western Australia 2023; position paper). We then combined water planning for the Fitzroy River catchment with our partially completed work for the Derby groundwater area. This combined planning approach better reflects the interconnectedness of the river, river pools, wetlands, floodplains, springs, groundwater systems and coastal areas, and how these support unique plants and animals, cultural responsibilities, tourism and pastoralism in the West Kimberley.... This plan builds on our many conversations with Traditional Owners, water users, local communities, government agencies and stakeholders. Many people have maintained concerns about the potential impacts of water abstraction. People have also shown interest in water-based development opportunities – provided that these are done in a way that:

- *protects the Fitzroy River as a free-flowing system*
- *protects water-dependent ecological, cultural, heritage and social values*
- *ensures decisions affecting Country and Traditional Owners are respectful*
- *cautiously approaches the development of groundwater abstraction given the highly variable climate and currently available baseline data*
- *enables a more resilient pastoral industry*
- *is based on transparency, sound science, and effective monitoring and compliance. (the draft plan p2)*

The key policies proposed in the draft plan are:

- Protecting the Fitzroy River and dependent environments (policy positions 01, 02, 04 and 07)
- Groundwater allocation limits and availability (policy positions 02, 03 and 07)
- Fitzroy–Derby Aboriginal Water Holding (policy position 05)
- Careful and staged groundwater development (policy positions 02, 06, 07, 08 and 09)
- Advisory group (policy position 10)

Introduction

CCWA thanks the Department of Water and Environmental Regulation (DWER) for the opportunity to comment on the consultation draft Fitzroy-Derby Water Resources Management Plan: policy and guidance (the draft plan). The draft plan is a significant step in determining how water resources across the Fitzroy River catchment and Derby groundwater area will be regulated, allocated and managed into the future. It also provides an important opportunity to ensure that government commitments to protect the Martuwarra Fitzroy River are translated into clear, enforceable and precautionary water management rules.

The Martuwarra Fitzroy River is one of Australia’s most significant free-flowing river systems. It sustains nationally important ecological, cultural, heritage and social values, including riverine pools, springs, wetlands, floodplains, estuarine environments, groundwater-dependent ecosystems and habitat for threatened and migratory species. It is also central to the rights,

responsibilities, knowledge systems and cultural practices of Traditional Owners, whose leadership must be embedded in decisions affecting Country.

CCWA welcomes the draft plan's continued commitment to no dams on the Fitzroy River or its tributaries, and to restricting further surface water entitlements except where essential or in the public interest. However, CCWA is concerned that the integrity of these protections will depend on how groundwater is managed.

Surface water and groundwater cannot be treated as separate systems in this catchment. During the dry season, groundwater can support permanent pools, springs, wetlands and other refuge habitats that are critical for wildlife, cultural practice, community water security and the ongoing health of the river system. For this reason, CCWA considers that the draft plan must apply a strong precautionary approach to groundwater allocation, licensing, monitoring and compliance.

This is particularly important given the combined pressures of increasing water demand, industrial development, climate change, limited baseline data in some areas, and documented weaknesses in the State's monitoring and enforcement of water licence conditions. Water allocation limits will only protect the river if they are accompanied by transparent decision-making, conservative local assessments, effective compliance systems, independent monitoring and clear triggers for management action.

CCWA, therefore, supports a policy and guidance strategy that will:

- protect the Martuwarra Fitzroy River;
- support Traditional Owner-led decision-making;
- halt over-extraction of vital groundwater;
- develop a sustainable, climate-resilient water-use plan that protects environmental, cultural and community values *before* new consumptive use is approved;
- implement enforceable, transparent and independently monitored limits on water extraction;
- protect threatened species of the Martuwarra Fitzroy River;
- provide ongoing monitoring of the health of the Martuwarra Fitzroy River; and
- support resilient fisheries, wetlands, floodplains and groundwater-dependent ecosystems.

CCWA's submission points

CCWA supports the following aspects of the draft plan as essential foundations for protecting the Martuwarra Fitzroy River and its dependent ecological, cultural, heritage and social values:

- Maintaining the 'no dam policy' for the Martuwarra Fitzroy River and its tributaries, recognising the importance of the river remaining a free-flowing system.
- Restricting any additional surface water entitlements unless they are required for clearly defined essential public purposes.
- Requiring surface water and groundwater regimes to remain within their natural range so that water-dependent ecological, cultural, heritage and social values are protected.

- Preventing further water being made available from surface water resources or the Alluvial and Devonian Reef aquifers, except where use is essential or demonstrably in the public interest,¹ in order to protect the river, its tributaries and the aquifers that support values of state and national significance.

These commitments are necessary and welcome. However, they will only be effective if the final plan addresses the practical implementation risks identified in the following submission points.

Importantly, CCWA considers that the draft plan must not treat groundwater as a lower-risk substitute for surface water. Groundwater can be critical to maintaining permanent pools, springs, wetlands, floodplain habitats and other dry-season refuges and, therefore, it plays a crucial role in the protection of threatened species, fisheries, cultural practice and community water security.

The following discussion will focus on the conditions that must accompany any final water management framework:

1. Conservative allocation settings
2. Protection from pollution and industrial impacts
3. Assessment of cumulative impacts on protected matters
4. Safeguards for fisheries and floodplain systems
5. Ongoing ecological and hydrological monitoring
6. Stronger controls under the *Rights in Water and Irrigation Act 1914* licensing process

1. Conservative allocation settings

The draft plan position

A total of 75.7 gigalitres (GL) a year is set across groundwater allocation limits. This reflects a precautionary approach to setting allocation limits for groundwater resources and is consistent with feedback from Traditional Owners and stakeholders on allocation limit options.

No further water is available from surface water resources or the Alluvial and Devonian Reef aquifers, unless it is essential or in the public interest. This is intended to protect the Fitzroy River and its tributaries and the ecological, cultural, heritage and social values that depend on the river and aquifers – which are of state and national significance.

*Allocation limits do not guarantee where and how much water can be taken under a licence. Local water availability is assessed through the water licensing process, in accordance with the *Rights in Water and Irrigation Act 1914* and the local policies in this plan (draft plan p3)*

CCWA position

¹ Public interest and essential public purposes should be clearly defined and exclusions specified.

CCWA supports a precautionary approach to groundwater allocation. However, the proposed 75.7 GL/year allocation limit requires clearer justification, stronger safeguards and transparent monitoring before it can be relied upon to protect the Martuwarra Fitzroy River and its dependent ecological, cultural and social values.

Key concerns

Basis for the 75.7 GL/year allocation limit

The *Consultation draft – Fitzroy–Derby water resources management plan: methods* document acknowledges ecological values but does not demonstrate that allocation limits are derived from robust, quantitative ecological assessments. Instead, limits appear primarily based on hydrological recharge estimates and risk-based heuristics, with ecological considerations acting as contextual inputs rather than binding constraints.

CCWA seeks greater transparency in the determination of the proposed 75.7 GL/year groundwater allocation limit.² The final plan should explain the hydrological and ecological evidence used to set this figure, including the assumptions applied to recharge, dry-season groundwater contribution to pools, springs and wetlands, groundwater-dependent ecosystems, and the level of uncertainty in areas where baseline data remains limited.

Climate change and cumulative impacts

CCWA is concerned that allocation limits may not adequately reflect future climate risk, including hotter conditions, altered rainfall patterns, more intense droughts and changes to wet-season recharge. The final plan should identify how climate change scenarios were modelled and how cumulative impacts from pastoral, mining, industrial, urban and other water-dependent development were assessed before determining that the proposed allocation limit is precautionary.

Relationship between allocation limits and actual extraction

CCWA notes that the draft plan states allocation limits do not determine where, when or how much water can safely be taken under individual licences. This means the licensing process must provide a robust second layer of protection. Local-scale assessment should be required before any new or expanded licence is granted, including assessment of drawdown, connection to surface water, impacts on permanent pools and springs, seasonal timing of take, cumulative local extraction and risks to cultural, ecological and social values.

Monitoring, compliance and enforcement

These safeguards are especially important given the Office of the Auditor General's (OAG) (2025)³ findings of shortcomings in compliance checks, monitoring of how much water is used, and reliance on industry self-reporting with limited independent verification. This review by the OAG followed earlier reports in 2003 and 2009 that found that "regulators' efforts were not systematic or sufficient to ensure water was not being taken unlawfully."

² CCWA does not consider the information contained in the 'Consultation draft – Fitzroy–Derby water resources management plan: methods' adequately utilises detailed ecological assessments to define allocation limits.

³ <https://audit.wa.gov.au/reports-and-publications/reports/regulation-of-water-licences/>

The OAG found that DWER “does not effectively monitor or enforce the conditions on the more than 12,000 water licences in the State” and that its current activities provide only “a limited understanding of actual compliance”. CCWA considers that the final plan must respond directly to these findings by requiring independently verifiable metering, transparent reporting, risk-based compliance inspections, clear enforcement responses and publicly available information on licence conditions and water use.

Public interest and essential public purpose exemptions

CCWA is concerned that broad or undefined exemptions could undermine the draft plan’s stated protection objectives. Any exemption allowing further water to be made available from surface water resources or the Alluvial and Devonian Reef aquifers should be narrowly defined, subject to transparent public-interest criteria, assessed against ecological and cultural thresholds, and applied only where the use is genuinely essential and cannot be met through lower-impact alternatives.

CCWA seeks further clarity on the definition of public purposes, public interest and essential public purposes. These terms should be explicitly defined and not used to enable developments that would undermine the plan’s core commitment to protect the Martuwarra Fitzroy River and its dependent environments.

2. Protection from pollution and industrial impacts

The Kimberley faces a number of threats to water quality from mining and other water dependent development but hydraulic fracturing (fracking), used to extract oil and gas, represents the most significant and immediate threat.

Fracking

Fracking poses significant risks to the Fitzroy River system due to its potential to disrupt both groundwater and surface water processes in an already highly variable and culturally and ecologically important catchment. The Fitzroy’s flows depend on complex interactions between rainfall, floodplain connectivity, and groundwater recharge, all of which could be affected by large-scale water extraction, drilling, and well stimulation activities associated with unconventional gas development.

The key risks include:

- contamination of aquifers and connected river systems from chemicals or produced water;
- reduced baseflows due to groundwater drawdown; and
- increased sedimentation and habitat disturbance from infrastructure development.

These impacts are particularly concerning given the Fitzroy Martuwarra River’s high biodiversity values, its importance to Traditional Owners, the limited baseline data and the uncertainty

surrounding hydrogeological connectivity in the region – where even low-probability contamination or depletion events could have irreversible consequences.

CCWA has engaged extensively with State and Commonwealth assessment processes for fracking proposals in the Kimberley region. Key concerns include:

- inadequate compliance monitoring and enforcement;
- insufficient assessment of risks from chemical mixtures used in fracking fluids;
- limited baseline data on groundwater systems and contaminant behaviour;
- the difficulty or incapacity to remediate groundwater systems once they become polluted;
- inadequate consideration of impacts on stygofauna and groundwater-dependent ecosystems; and
- risks to environmental and drinking water quality from pollutants, including contamination by radionuclides in formation water.

Fracking poses high but poorly understood risks to both groundwater and surface water systems, including contamination, aquifer drawdown, and alteration of hydrological connectivity, in a region characterised by significant ecological and cultural values and high scientific uncertainty. The current plan does not adequately assess or account for these risks, nor does it incorporate sufficient safeguards to ensure that water-dependent ecosystems, groundwater-dependent vegetation, and subterranean fauna would be protected from the potential impacts of fracking.

Given the noted risks, the final plan must explicitly exclude unconventional gas development and other high-risk industrial activities from accessing or relying on water resources within the Plan Area and its buffer. This should include clear prohibitions or strict controls to prevent contamination of groundwater and connected surface water systems, supported by precautionary regulation, rigorous independent monitoring and enforceable safeguards.

Excluding fracking as an allowable activity under the final plan would ensure that water allocation decisions remain consistent with the objective of protecting the long-term ecological integrity and cultural values of the Fitzroy River system.

3. Assessment of cumulative impacts on protected matters

The draft plan area contains the following protected matters:

- One National Heritage Place – The West Kimberley ⁴
- >50 listed threatened species
- Approximately 45 listed migratory species

Species of note, and which are reliant on wetland, riverine water or groundwater dependent habitats, or are at risk from climate induced habitat change, include:

- Curlew sandpiper *Critically Endangered*
- Gouldian finch *Endangered*

⁴ [West Kimberley - DCCEEW](#)

- Red goshawk *Endangered*
- Northern Siberian bar-tailed Godwit *Endangered*
- Eastern curlew *Critically Endangered*
- Night parrot *Critically Endangered*
- Northern quoll *Endangered*
- Ghost bat *Vulnerable*
- Greater bilby *Vulnerable*
- Nabarlek wallaby *Endangered*
- West Kimberley rock-wallaby *Endangered*
- Bare-rumped sheath-tailed bat *Vulnerable*
- Great desert skink *Vulnerable*
- Northern blue-tongued skink *Critically Endangered*
- Mitchell's water monitor *Critically Endangered*
- Freshwater sawfish *Endangered*
- Dwarf sawfish *Vulnerable*
- Green sawfish *Vulnerable*

Curlew sandpiper (Critically Endangered)

The species does not breed in Australia but is reliant on coastal wetlands and, and less often, inland areas around "...ephemeral and permanent lakes, dams, waterholes and bore drains, usually with bare edges of mud or sand." ⁵ These areas provide foraging (of mainly invertebrates) and, on the coast, roosting habitat.

"Threats in Australia, especially eastern and southern Australia, include ongoing human disturbance, habitat loss and degradation from pollution, changes to the water regime and invasive plants." ⁶

Changes to the flow of the Fitzroy Martuwarra River through the cumulative impacts of over allocating water and climate change could produce significant impacts to the population of curlew sandpiper in the Kimberley.

Eastern curlew (Critically Endangered)

The key threats to eastern curlew include coastal development over wetlands, degradation of coastal habitat and sea level rise. ⁷

Changes to the flow of the Fitzroy Martuwarra River through the cumulative impacts of over allocating water and climate change could produce significant impacts to the populations of eastern curlew in the Kimberley.

Night parrot (Critically Endangered)

The night parrot is vulnerable to cumulative pressures including predation, altered fire regimes, grazing and climate change. ⁸ Water mismanagement - particularly over-allocation or poorly managed extraction - can alter vegetation structure and reduce the availability of critical habitat,

⁵ [Consultation Document on Listing Eligibility and Conservation Actions Calidris ferruginea \(curlew sandpiper\)](#) p5

⁶ <https://www.dcceew.gov.au/sites/default/files/env/pages/4733bf67-5f21-4dcf-9246-79601cfed84d/files/curlew-sandpiper-consultation.pdf> p7

⁷ [Threatened Species Strategy Year 3 Scorecard – Eastern Curlew](#)

⁸ [Threatened Species Strategy Year 3 Scorecard – Night Parrot](#)

while also increasing the risk of exposure to predators. Hydrological changes may compound existing threats and accelerate habitat decline.

Water allocation decisions must, therefore, consider cumulative, direct and indirect impacts and their contribution to night parrot population decline.

Northern blue-tongued skink (Critically Endangered) and Mitchell's water monitor (Critically Endangered)

Both the northern blue-tongued skink and Mitchell's water monitor are highly vulnerable to cane toads. Changes to surface water distribution and persistence may influence cane toad spread and survival, increasing the risk to remnant subpopulations that are resilient to cane toads.

The final plan should further consider how water allocation or development might influence cane toad spread.

Northern quoll (Endangered)

In addition to threats from cane toads and predation pressures, northern quoll populations are sensitive to vegetation changes.⁹ Altered hydrology from water extraction, or associated development, may affect habitat structure and availability, acting as an additional stressor on northern quoll populations.

The final plan should include explicit habitat evaluations entailing rigorous risk assessments for riparian, floodplain and groundwater dependent terrestrial vegetation.

Freshwater Sawfish (Endangered)

Sawfish species depend on riverine, estuarine and floodplain habitats.¹⁰ Changes to flow regimes, connectivity and water quality resulting from water allocation decisions may degrade critical habitat and disrupt lifecycle processes.

The final plan should carefully consider the full lifecycle of the freshwater sawfish and the risks to the species from water allocation or industrial processes that cause degradation of critical habitat.

Subterranean fauna

The region's globally significant¹¹ subterranean fauna is highly sensitive to groundwater extraction and contamination. Changes in groundwater levels, flow and quality associated with water use and industrial activities pose a direct risk to these species and their habitats.

The final plan should explicitly recognise and manage risks to subterranean fauna from groundwater abstraction and injection, consistent with a precautionary approach in light of their vulnerability and limited scientific understanding.

Implications for the plan

Given the sensitivity of these protected matters, the final plan must ensure that:

- cumulative impacts are assessed across all water uses and sectors;

⁹ DCCEEW Recovery Plan p9.

¹⁰ DCCEEW Recovery Plan p10

¹¹ [Guideline-Subterranean-Fauna-131216_3.pdf](#) p3

- connections between surface water, groundwater and dependent ecosystems are explicitly considered;
- water allocation decisions are informed by ecological thresholds and species requirements; and
- a precautionary approach is applied where uncertainty exists.

4. Safeguards for fisheries and floodplain systems

Strong safeguards for flow-dependent fisheries and other floodplain systems are essential to protect the ecological, cultural and community values of the Martuwarra Fitzroy River catchment. Healthy floodplains and connected waterways underpin native fish populations, biodiversity and key seasonal processes.¹²

The final plan should prioritise natural flow regimes by protecting low-flow periods and maintaining connectivity between rivers, wetlands, and floodplains. As these connections are critical for fish breeding, nursery habitats, waterbirds, and ecosystem health, water allocation must safeguard environmental flows, protect refuge pools and spawning habitats, and avoid extraction that reduces flood extent or disrupts ecological cues for movement and reproduction.

Given the sensitivity of these fisheries and floodplain ecosystems, the final plan should adopt a precautionary approach, supported by transparent monitoring and clear triggers for adaptive management, to prevent irreversible impacts and support long-term ecosystem resilience.

5. Ongoing ecological and hydrological monitoring

Robust ecological and hydrological monitoring is essential to ensure that water allocation and management decisions do not undermine the health of the Fitzroy Martuwarra River catchment. Given the high level of uncertainty in baseline data and future climate conditions, monitoring must provide early warning of environmental change and inform adaptive management.

The final plan should require an expanded monitoring framework that integrates groundwater, surface water and ecological indicators. This would include:

- a significantly increased number of monitoring sites, especially across the eastern reaches of the Plan Area;
- monitoring of groundwater levels, drawdown and recharge rates across key aquifers;
- monitoring of surface water flows, including low-flow conditions and seasonal variability;
- monitoring the condition of groundwater-dependent ecosystems, wetlands and refuge pools;
- inclusion of water quality indicators, including salinity, contaminants and nutrient levels;
- use of ecological indicators such as fish populations, waterbirds and key threatened species;

¹² <https://www.uwa.edu.au/news/article/2025/november/big-floods-promote-fish-diversity-on-fitzroy-river-floodplain>

- monitoring programs that are designed to detect cumulative and localised impacts, including changes to dry-season habitat availability, river-groundwater connectivity and floodplain inundation patterns;
- monitoring that is independently verified, with limited reliance on self-reporting by proponent bodies;
- monitoring processes that are transparent, with publicly accessible data and reporting;
- clear thresholds and triggers for management action;
- adequate resourcing to ensure long-term continuity of monitoring; and
- linking monitoring to prompt remedial actions before irreversible impacts occur.

6. Stronger controls under the *Rights in Water and Irrigation Act 1914* licensing process.

Allocation limits do not guarantee where and how much water can be taken under a licence. Local water availability is assessed through the water licensing process, in accordance with the Rights in Water and Irrigation Act 1914 and the local policies in this plan. (the draft plan p3)

The water licensing process under the *Rights in Water and Irrigation Act 1914* is a critical mechanism for ensuring that allocation limits are applied effectively at the local scale. While the draft plan notes that allocation limits do not determine how much water can be taken under individual licences, this places significant responsibility on the licensing framework to prevent unacceptable impacts.

To be effective, the licensing process must adopt stronger and more explicit safeguards, including:

- mandatory local-scale assessments of drawdown, surface water connectivity and impacts on groundwater-dependent ecosystems before licences are granted or amended;
- consideration of cumulative impacts from existing and proposed water use;
- clear limits on extraction during critical low-flow and dry-season periods;
- enforceable licence conditions that protect environmental, cultural and community values; and
- requirements for metering, monitoring and public reporting of water use.

Given the OAG documented weaknesses in monitoring, compliance and enforcement, the licensing system must also be supported by:

- regular, risk-based regulatory compliance inspections;
- independently verified data, rather than sole reliance on self-reporting by industry; and
- clear enforcement responses where conditions are breached.

Strengthening the licensing process is essential to ensure that allocation limits are translated into real protections for the Martuwarra Fitzroy River and its connected groundwater systems.

Key recommendations

1. **Adopt and justify precautionary allocation limits**

Finalise groundwater allocation limits only where they are supported by transparent hydrological and ecological evidence, including climate change scenarios and uncertainty. Apply more conservative limits where baseline data is limited.

2. **Strengthen licensing controls under the *Rights in Water and Irrigation Act 1914***

Require mandatory local-scale assessments before licences are approved, including impacts on groundwater-surface water connectivity, dry-season flows and groundwater-dependent ecosystems. Refuse licences where risks cannot be confidently avoided.

3. **Mandate cumulative impact assessment**

Ensure all licensing and planning decisions consider cumulative environmental impact across sectors (pastoral, mining, and other industry).

4. **Protect environmental flows and dry-season refuges**

Establish enforceable limits that maintain natural flow regimes, protect low-flow periods and safeguard critical habitats such as permanent pools, wetlands and floodplains.

5. **Expand monitoring**

The Plan Area should include more monitoring locations, especially across the eastern reaches of the catchment. Monitoring should include a range of hydrological, ecological and water quality parameters.

6. **Implement a robust, independent monitoring framework**

Require integrated monitoring of groundwater, surface water and ecological indicators, with:

- independent verification
- public reporting
- clear thresholds and triggers for management action

7. **Strengthen compliance and enforcement**

Introduce mandatory metering, risk-based inspections and clear enforcement responses to licence breaches, supported by publicly accessible data on water use and compliance.

8. **Clearly define ‘public interest’ and ‘essential public purpose’**

Limit ‘public interest’ exemptions that allow additional water extraction by establishing narrow, transparent, well-defined criteria and requiring demonstration that the *lowest impact* alternatives have been applied.

9. **Address risks from pollution and industrial activities**

Assess and appropriately manage risks to groundwater and surface water from industrial development and associated chemical or radiological contamination through explicit prohibitions or strict controls on polluting industry.

10. **Address the unacceptable risks to the Fitzroy Martuwarra River catchment from fracking**

Explicitly exclude high-risk industrial operations involving fracking from accessing water resources within the Plan Area or injecting chemicals that pose a risk of polluting water resources within the Plan Area.

11. Consider the risks from cane toads

The final plan should consider how water allocation or allowable development might influence cane toad spread.

12. Embed Traditional Owner leadership

Ensure Traditional Owners are central to decision-making processes, including water allocation, monitoring and adaptive management.

13. Commit to adaptive management under climate uncertainty

Establish clear review mechanisms so allocation limits and management settings can be rapidly adjusted in response to new data, monitoring results and climate impacts.