

29 June 2026

[REDACTED]
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Water Planning Division
Department of Water and Environmental Regulation

Sent via email: fitzroyderbywaterplanning@dwer.wa.gov.au

Fitzroy-Derby water resources management plan: policy and guidance

Dear Mr Abbott,

The Chamber of Minerals and Energy of WA (CME) is the peak representative body for the resources sector in Western Australia. CME is funded by member companies responsible for 90 per cent of the State's mineral workforce employment.¹

CME welcomes the opportunity to provide feedback on the draft Fitzroy-Derby water resources management plan: policy and guidance (Plan), and the accompanying methods document. Clear, consistent and transparent water licencing frameworks, policies and guidelines are crucial to support the sustainable management of water resources, providing certainty for water users, communities, Traditional Owners, industry and government alike.

Key components of the Plan require further consultation to ensure that amendments to water allocations and licensing arrangements are workable. We also recommend draft terms of reference for the proposed Kimberley Water Advisory Committee and a proposed governance framework for the Fitzroy-Derby Aboriginal Water Holding are released for consultation due to the significant and unique role these groups will play in water planning and water management. More detailed feedback and recommendations developed in collaboration with our members is included at Appendix A.

CME looks forward to engaging further with DWER on these important matters impacting the WA resources sector.

Should you have any questions regarding this submission, please contact [REDACTED]
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Yours sincerely,

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¹ Government of Western Australia, [2023-24 Economic Indicators Resource Data File](#), full-time equivalents onsite under State legislation, Department of Energy, Mines, Industry Regulation and Safety, 29 October 2024.



Appendix A: Fitzroy-Derby water resources management plan – CME feedback

General comments

Proponents rely on clear and predictable processes and efficient and consistent assessment timeframes to plan and develop projects and attract investment. The amended water licensing policy and guidelines for the Plan area will confer additional assessment requirements on the DWER business area responsible for assessing applications, including consideration of cultural heritage, ecological impacts and areas of social significance. The Auditor-General's June 2025 report noted that DWER had staffing constraints in recent years². In this context it will be important that the introduction of these additional assessment requirements is accompanied by sufficient resourcing to maintain timely and predictable assessment timeframes. Reasonable assessment timeframes must be set and appropriate resourcing allocated to the responsible business area to ensure that proponents aren't subject to unnecessary delays when applying for a licence or renewal.



Recommendation 1: Assessment timeframes

DWER should set and publish clear, measurable assessment timeframes for water licence and renewal applications and report on adherence to these timeframes.



Recommendation 2: Resourcing and capability plan

DWER should publish a resourcing and capability plan outlining how it will meet assessment timeframes, accounting for the additional responsibilities being conferred by the Plan.

It is not clear in the Plan or methods document how existing water licences will be managed after the adoption of the updated policy. Proponents with existing water licences have been operating and planning based on the current licensing policy. Any change to existing arrangements would threaten the operational viability of projects and undermine investor confidence in the resource sector.



Recommendation 3: Existing licence arrangements

DWER should grandfather existing licences and licence conditions to provide certainty and ensure the continuity of operations for current licence holders.

Water allocation limits (Section 2.3)

Section 2.3 of the Plan establishes surface water and groundwater allocation limits for the water resources in the plan area. Table 5 details allocation limits for most of the aquifers in the plan area, based on hydrogeological information set out in the methods document. There are five aquifers with no allocation limit set, and water availability for further licensing being determined on a case-by-case basis. CME members have indicated that some of these aquifers are of direct relevance to existing and prospective proponents.

The absence of allocation limits or assessment criteria for case-by-case applications to abstract water from these aquifers reduces clarity and certainty for proponents seeking to assess project feasibility and approvals pathways.

This uncertainty is particularly evident in relation to historically utilised aquifers. For example, the Canning-Liveringa aquifer has no allocation limit specified in the Plan, despite the WA Government previously setting a sustainable yield of approximately 10,000 megalitres per year in its Water

² Office of the Auditor General, Report 20: 2024-25 Regulation of Water Licences, 11 June 2025, p.9



Resources Inventory (2014). The Plan does not explain why the allocation figure no longer applies, leaving proponents unclear about how future water availability will be managed and assessed.

Without clear guidance regarding water availability where no allocation limit is set, proponents cannot reliably assess project feasibility and should not be expected to estimate a sustainable yield for individual aquifers.



Recommendation 4: Application guidance

DWER should consult on draft guidance outlining the assessment framework for applications considered on a case-by-case basis in areas where no allocation limit has been set. The guidance should clearly articulate the information requirements for applications, the methodology DWER will use to determine water availability for licensing and the circumstances and factors that may warrant an adjustment to licence conditions.



Recommendation 5: Sustainable yield estimates

DWER should amend the Plan to include current sustainable yield estimates or in the absence of sustainable yield estimates articulate the framework that will guide water availability assessments and future allocation decisions under the Plan.

Local Licensing Policies (Section 2.4)

Section 2.4 establishes local licensing policies in the Plan area, including that DWER is unlikely to grant a licence for more than 3 gigalitres of groundwater per year in a single application. In the absence of published sustainable yield estimates, the basis for this approach and its relationship to sustainable management of the resource are not clearly explained.

This approach introduces a staged approach for water licence management, which may be appropriate if proponents have a clear pathway to seek additional volumes. Clarity over how proponents can apply for additional volume and DWER decision-making process is needed to mitigate uncertainty for project planning and the risk of assessment delays.



Recommendation 6: Additional volume assessment guidance

DWER should consult on draft guidance outlining assessment criteria, applicant information requirements and monitoring expectations for water licence applications beyond the initial licence cap. Consultation on this guidance should occur prior to finalisation of the Plan.

Environment and cultural heritage considerations (Section 2.4 - Table 6)

Industry is supportive of regulatory settings that enable sustainable development while protecting the environment and cultural heritage. Environmental impact and cultural heritage are assessed and regulated under dedicated legislative frameworks, including the *Environmental Protection Act 1986* (WA), *Aboriginal Heritage Act 1972* (WA), the *Mining Act 1978* (WA), the *Petroleum and Geothermal Energy Resources Act 1987* (WA), and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Despite this, Section 1 of Table 6 of the Plan sets out relevant matters considered when assessing a licence that include impacts on sites of ecological significance and sites of cultural significance. Section 2 of Table 6 details a range of further information that may be requested in the assessment of an application relating to hydrogeology, environmental impacts, and cultural and heritage impacts. Expanding the scope of water licencing assessments to reconsider these matters risks creating unnecessary regulatory duplication, increased assessment timeframes and additional



administrative burden for both DWER and proponents, without improving environmental or heritage outcomes.

The duplication of environmental and cultural heritage considerations across multiple regulatory processes is a well-recognised existing issue in WA's regulatory framework. The recent Native Title and Cultural Heritage Processes Review³ identified in Recommendation 18, the need for greater cross-government coordination to reduce overlap and improve regulatory efficiency, rather than introducing additional layers of assessment.



Recommendation 7: Assessment of water resource impacts

The Plan should clearly distinguish the assessment of water resource impacts from the assessment of environmental, heritage and other regulatory matters and avoid duplicating requirements more appropriately considered through other established regulatory processes.

Traditional Owner Engagement Principles (Section 2.5)

CME acknowledges the deep connection that Aboriginal people have with the land and waters of their Country and supports early engagement in the development of resource projects.

Constructive engagement with Traditional Owners is a fundamental part of responsible resource development and is not limited to statutory approval requirements, occurring throughout the planning, development and operation of resource projects. Consultation requirements should be consistent across Government regulators to support effective engagement with Traditional Owners and avoid duplicative processes, which result in confusion, consultation fatigue and unnecessary delays without additional social, cultural or environmental benefit.

Table 8, section 2.1 of the Plan outlines the information proponents are expected to provide in relation to engagement with Traditional Owners and protection of cultural heritage. However, the expectations around Aboriginal consultation in section 2.1 are not clear, with four different examples of 'best practice' referenced in 2.1(d). The reference to multiple, disparate examples of 'best practice' reinforces the need for a more consistent approach to Aboriginal consultation across government, as recognised in Recommendation 17 of the Native Title and Cultural Heritage Processes Review.⁴

To avoid uncertainty and possible process duplication, the consultation requirements should provide proponents with a clear understanding of expected timeframes, any extension process, and when consultation obligations have been satisfied. Given ongoing State and Commonwealth reforms in this area, consultation requirements should be designed to facilitate alignment across regulatory frameworks and avoid the emergence of inconsistent consultation expectations between agencies.



Recommendation 8: Traditional Owner engagement guidance

DWER should engage with the Department of the Premier and Cabinet and the Department of Planning Lands and Heritage to develop Traditional Owner engagement guidance that aligns with existing processes, avoids duplication, and clearly relates to the purpose and scope of the Plan.

Kimberley Water Advisory Committee (Section 2.6)

The establishment of a Kimberley Water Advisory Committee (Committee) aimed at strengthening collaboration and alignment between the State Government and other stakeholders is supported in principle, noting that key details are yet to be published. CME notes that the proposed composition, terms of reference, governance, decision-making responsibilities and relationship to statutory decision-making of the Committee are not outlined in the Plan or methods document. The

³ Kelly, G and Clark, S, National Native Title Tribunal Review of Native Title and Heritage Processes in Western Australia, 9 February 2026, p.88

⁴ Kelly, G and Clark, S, National Native Title Tribunal Review of Native Title and Heritage Processes in Western Australia, 9 February 2026, p.86



development of these details will be crucial in establishing a committee that is effective, efficient and representative.



Recommendation 9: Kimberley Water Advisory Committee Framework

DWER should publish and consult on the following documents prior to the Plan being finalised:

- a draft Terms of Reference for the Committee;
 - the proposed membership composition;
 - a governance framework; and
 - a document outlining the decision-making responsibilities of the Committee and the relationship of the Committee with statutory decision-making.
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To facilitate advice and decision-making that is genuinely inclusive and collaborative, the Committee must be representative of the broad range of stakeholders and not be unfairly weighted towards one stakeholder, or group of stakeholders.



Recommendation 10: Committee representation

DWER should ensure stakeholders and stakeholder groups are represented in a balanced manner on the Committee.

A potential barrier to meaningful involvement in the committee would be the disclosure of culturally and commercially sensitive information. When drafting the terms of reference for the Committee confidentiality provisions must be developed to ensure that stakeholders can share information in a free and secure environment.



Recommendation 11: Confidentiality provisions

DWER must develop appropriate confidentiality provisions for the Committee.

The sustainable allocation of water resources across the state is a matter of considerable interest to the Western Australian public, which necessitates balanced Ministerial decision-making. The Minister for Water is accountable to the Western Australian people for decisions that are made in the interests of the state. CME does not support the delegation of decision-making power on water licensing matters.



Recommendation 12: Decision-making authority

The Minister for Water should retain all decision-making authority in relation to the allocation of water resources.

The Fitzroy-Derby Aboriginal Water Holding (Policy Position 5)

CME supports the development of Aboriginal economic determination opportunities generating wealth and employment in Western Australia. The governance, management and application framework associated with the Fitzroy-Derby Aboriginal Water Holding will be of interest and of consequence for stakeholders, the broader community and the state. It is important that the Holding is established with careful consideration given to its governance, decision-making powers and processes, and the way it operates in practice. In collaboration with Traditional Owners and other key stakeholders, DWER should:



- consider how arrangements can be entered into to access water from the Holding;
- the legal framework for commercial access to the Holding, including the pricing and access arrangements that will apply to commercial transactions;
- the interaction with non-commercial and cultural water rights;
- what decision making requirements and timeframes will be established; and
- how DWER will ensure decisions are transparent, timely and consistent with existing rights and statutory regimes.

The alignment of the Holding with the existing rights of Native Title holders in the Plan area is crucial to safeguarding the legitimacy and legal standing of the Holding. The Plan area encompasses the Country of multiple Traditional Owner groups with differing Native Title determinations, claims and water interests. Legal consideration must be given to ensure that the establishment and operation of the Holding aligns with existing Native Title rights. DWER should also consider the interaction of the Holding with existing statutory frameworks to ensure alignment and avoid duplicative approval, consultation and decision-making processes.



Recommendation 13: Fitzroy-Derby Aboriginal Water Holding draft framework

DWER should consult on a draft framework covering the governance and operation of the Fitzroy-Derby Aboriginal Water Holding, developed in collaboration with Traditional Owners and key stakeholders and underpinned by clear legal authority.

Transparent decision-making is critical in establishing confidence in the regulation and management of water resources through the Plan. Allocation decisions must be based on robust hydrogeological data and be accompanied by clear explanations which outline the intent of the Department and justification of decisions made. While the Plan and the methods document acknowledge delivery of the State Government's commitment to establish a Fitzroy-Derby Aboriginal Water Holding, there is no detail on how the Department arrived at the figure of approximately 25 gigalitres per year. It is important that this information is made available for scrutiny to ensure that the Holding is sustainable and meets the expectations of stakeholders.



Recommendation 14: Proposed Holding volume

DWER should publish supporting information to outline the rationale behind setting the proposed Holding at 25 gigalitres per year.
