

Kupartiya

Layout Plan 1

Background Report

October 2013

Date endorsed by WAPC



Amendments

Amendment 1 - July 2017

Amendment 2 - June 2020

KUPARTIYA LAYOUT PLAN 1

Layout Plan 1 (LP1) was prepared during 2012 and 2013 by the former Department of Planning. LP1 was endorsed by the resident community (18 March 2013), the traditional owners (5 September 2013) and the Western Australian Planning Commission (WAPC) (22 October 2013).

The WAPC endorsed one amendment to LP1 (11 July 2017). The endorsed amendment is listed in Part 7 of this report. This amendment comprised of map-set changes, with no changes made to the background report.

Consequently, the background report has become out-of-date, and in June 2020 it was updated as part of Amendment 2. The Amendment 2 background report update sought to keep all relevant information, while removing and replacing out-of-date references and data. All temporal references in the background report refer to the original date of preparation, unless otherwise specified.

<p>As part of the machinery of government (MOG) process, a new department incorporating the portfolios of Planning, Lands, Heritage and Aboriginal lands and heritage was established on 1st of July 2017 with a new department title, Department of Planning, Lands and Heritage. Since the majority of this report was finalised before this occurrence, the Department of Planning, Lands and Heritage will be referred to throughout the document. Other government departments mentioned throughout this document will be referred to by their department name prior to the 1st of July 2017.</p>
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Community Representative Organisations

Traditional Owners representative organisation	: Gooniyandi Aboriginal Corporation (RNTBC)
Related organisations	: Bohemia Downs Aboriginal Pastoral Corporation Kupartiya Incorporated Kurungal Council Incorporated

Acronyms

ABS	: Australian Bureau of Statistics
AHA	: <i>Aboriginal Heritage Act (WA) 1972</i>
AHIS	: Aboriginal Heritage Information System
ALT	: Aboriginal Lands Trust
CATSI	: <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>
CASA	: Civil Aviation Safety Authority
DoC	: Department of Communities (Housing)
DoP	: Department of Planning
DIA	: Department of Indigenous Affairs
DPLH	: Department of Planning, Lands and Heritage
DWSP	: Drinking Water Source Protection Plan
EHNS	: Environmental Health Needs Survey
GAC RNTBC	: Gooniyandi Aboriginal Corporation RNTBC
IARE	: Indigenous Area
ILUA	: Indigenous Land Use Agreement (<i>under the Native Title Act 1993</i>)
KRSP	: Kimberley Regional Service Providers
LP	: Layout Plan
NNTT	: National Native Title Tribunal
NTA	: <i>Native Title Act (Commonwealth) 1993</i>
NTRB	: Native Title Representative Body
ORIC	: Office of the Registrar of Indigenous Corporations
PBC	: Prescribed Body Corporate (under the NTA, representing native title holders)
REMS	: Remote Essential and Municipal Services
RNTBC	: Registered Native Title Bodies Corporate (under the NTA, to hold, protect and manage determined native title)
SL-lot	: Settlement layout lot
SPP	: State Planning Policy
WAPC	: Western Australia Planning Commission

Layout Plans & the Development Process

Layout Plans provide a structure for future development. LP preparation includes consultation with a range of relevant government authorities and agencies, but it is not development approval.

It is the responsibility of the developer to ensure that all relevant consents, approvals, licences and clearances are in place prior to commencing physical works on site.

Organisations responsible for such matters may include the landowner, local government, incorporated community council, native title representative body, native title prescribed body corporate, Aboriginal Cultural Materials Committee, Environmental Protection Authority, state and federal government departments, and other relevant regulatory authorities.

EXECUTIVE SUMMARY

The Kupartiya Layout Plan No. 1 was prepared by the former Department of Planning (DoP) during 2012-2013. The tables below summarise the main issues concerning the planning, development and provision of services within Kupartiya, covered in more detail in the body of this report.

Table 1 – Population Summary

Existing Population :	40
Aspirational Population :	80
Design Population :	80

Table 2 - Place Characterisation Indicators

Indicator	Community Characteristics
Drinking water	Drinking water supply is not regulated. Water quality and quantity is monitored through Remote Essential and Municipal Services (REMS) program.
Electricity	Electricity supply and generation is not regulated. Electricity supply operated by community with repair, maintenance and capital works supports provided by REMS.
Flood	No flood study exists. Community located close to Christmas Creek. Some flooding occurs during wet season both north and south of the community.
Land tenure	Lot 86 Crown Reserve 43061 and part of lot 51 Bohemia Downs pastoral lease PL N049593.
Wastewater	Septics, managed by the community.
Emergency assistance	Emergency services located less than 2 hours by road from community at Fitzroy Crossing.
Education	School at Wangkatjunga approximately 45 minutes by road. School bus facilities available.
Health	Part time clinic at Wangkatjunga approximately 45 minutes by road.
Food	Wangkatjunga store is approximately 45 minutes by road.
Transport	Generally reliable road access from Great Northern Highway. Some seasonal flood road cut-off for up to two weeks. Civil Aviation Safety Authority Code 2 airstrip.
Waste services	The community disposes of waste in an unregulated rubbish tip located at SL-lot 41.
Employment & enterprise	There are established employment opportunities on pastoral leases, and at both Fitzroy Crossing and Halls Creek, which are both under two hours away by road.
Governance	Gooniyandi Aboriginal Corporation RNTBC (GAC RNTBC)
Aboriginal heritage	The community is located within the determination area of the Gooniyandi Combined No. 2 native title determination (19 June 2013).

LP1 plans for future expansion of the community and formalises existing infrastructure and land uses and provides a future SL-lot layout and road design.

The major purpose of LP1 is to guide the growth and development of Kupartiya by providing a layout of existing and future land uses in the community. LP1 addresses future growth issues in the context of constraints to development including available land for growth of the living area and the location of essential service infrastructure.

This Layout Plan outlines a clear and straightforward way for Kupartiya to grow in a co-ordinated and efficient manner.

DEVELOPMENT PRIORITIES

The following initiatives were developed by the community in 2012-2013, and were considered to be needed to implement LP1:

1. Establishment of a new drinking water source in a location that is appropriately separated from incompatible land uses, in order to secure safe drinking water supply for Kupartiya.
2. Construction and refurbishment of housing on an ongoing basis, in order to provide an appropriate level of accommodation for the existing and increasing population of Kupartiya.
3. Construction of roads.
4. Establishment of the community store.
5. Establishment of the recreation land uses within the community.
6. Establish a Rural SL-lot for growing fruit and vegetables.
7. Preparation of a Drinking Water Source Protection Plan.

Implementing the Layout Plan

The implementation of this LP will rely on the energy and endeavour of the community members.

The future growth of Kupartiya will require community members to find solutions for the provision of services and infrastructure (such as housing and sealed roads). This reinforces the objectives of the Kupartiya Layout Plan 1 to help bring about the self-support of its members by the development of economic projects and industries, and to encourage members to manage their affairs on their own land.

1 BACKGROUND

1.1 Location & Setting

Kupartiya is located on Bohemia Downs Station 120km south-east of Fitzroy Crossing in the Kimberley region of WA. Kupartiya is within the Shire of Halls Creek. The Great Northern Highway is the main route for access to the community.

Christmas Creek runs parallel to the community to the south. The vegetation is dominated by spinifex, native grasses and scattered shrubs, with acacia and eucalypts prevalent where there is water, creeks and rivers. The soil is generally poor sandy loam, which will grow most agricultural produce with the addition of water, minerals and trace elements.

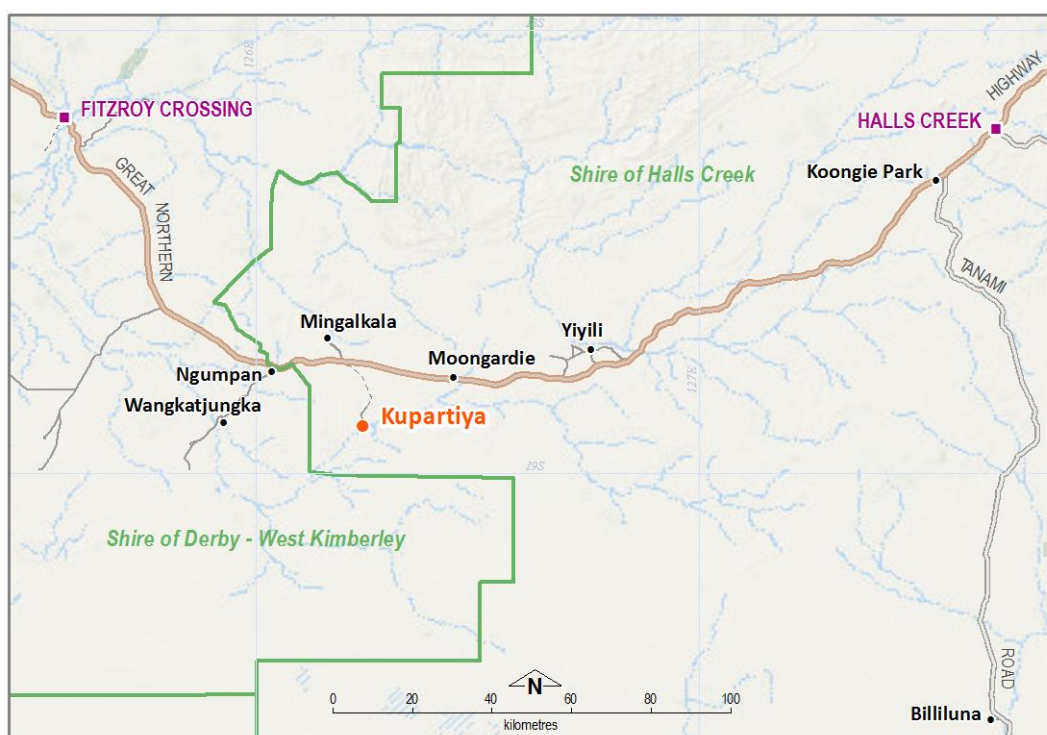


Figure 1 – Regional context of Kupartiya

1.2 Climate

The nearest weather recording station to Kupartiya is the Bulka weather station, located 22 km south-west of Kupartiya. Bulka has records for rainfall only and these figures are shown in Table 3 and Figure 2. Around 60% of the mean annual rainfall (442 mm) generally falls in January and February, and over 80% of Bulka's mean annual rainfall usually falls in the months of December to April, making these months difficult periods in which to travel.

The nearest weather recording station to Kupartiya with mean monthly temperatures records, is Fitzroy Crossing Aero weather station, located 125 km north-west of Kupartiya. Mean monthly maximum and minimum temperatures for Fitzroy Crossing Aero weather station are shown in Table 4 and Figure 3.

The months of April and May are typically warm to hot, but with moderate rainfall, marking the transition to a 'dry season'. The months of June, July, and August are typically dry and warm to hot, before becoming hotter and humid from September through to December, with the 'wet season' usually between December and April.

Table 3 –Bulka mean rainfall (1985 to 2018)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Rainfall (mm)	145.6	123.7	92.8	15.8	9.7	9.8	5.9	3.2	1.5	10.4	22.9	106	489.3

Source: Bureau of Meteorology

Note: The mean annual rainfall is not the sum of the mean monthly rainfall totals. For further data please refer to the Bureau of Meteorology website at www.bom.gov.au

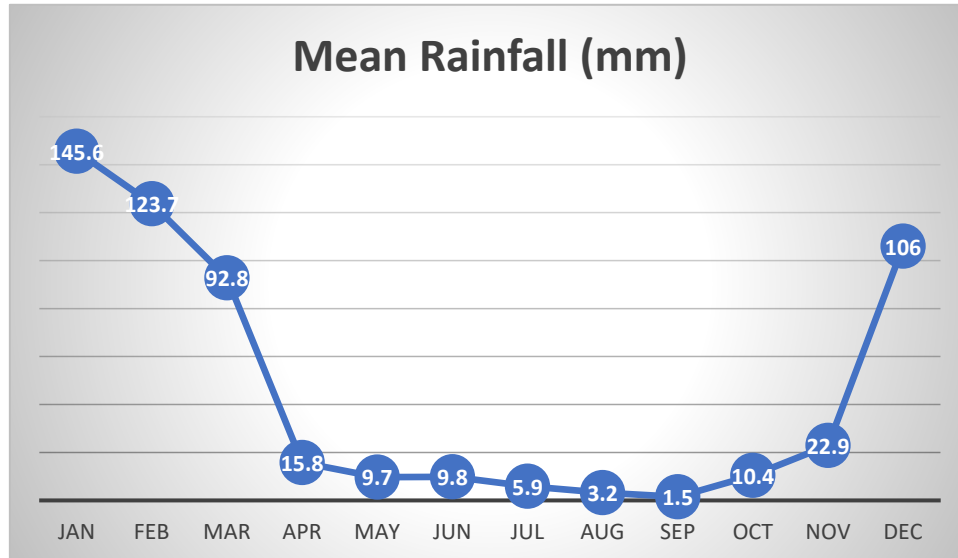


Figure 2 – Bulka mean rainfall (1985 to 2018)

Table 4–Fitzroy Crossing Aero mean temperatures (1997 to 2020)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Max. temp (°C)	40.7	42.4	39.9	40.0	35.3	32.7	32.8	35.2	38.8	42.0	42.8	43.2
Min. temp (°C)	34.6	33.8	33.2	33.4	29.5	27.8	29.3	31.2	35.4	37.2	37.7	36.1

Source: Bureau of Meteorology

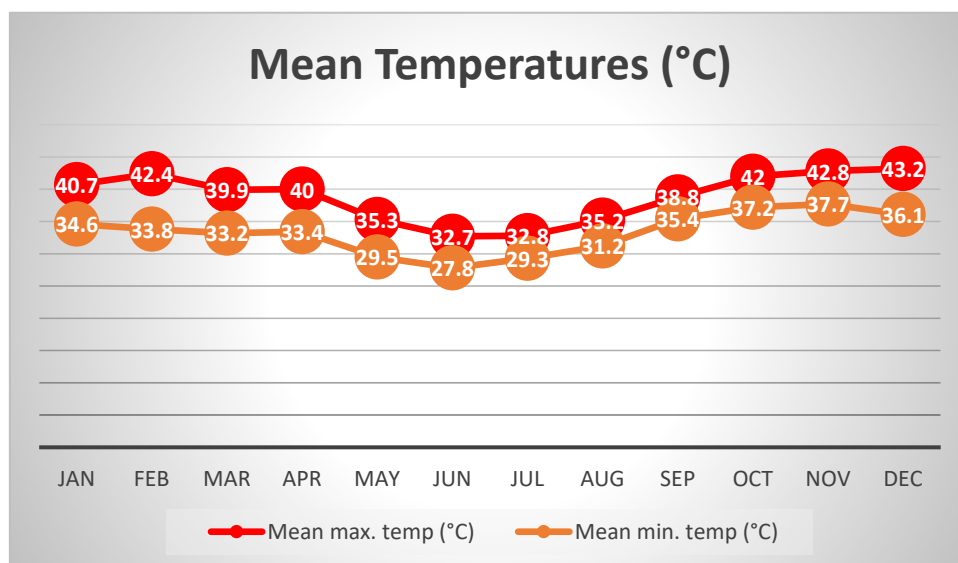


Figure 3 – Fitzroy Crossing mean temperature (1997 to 2020)

1.3 History and Culture

Please note that this is a concise summary of the post-settlement history of Kupartiya, and is for the purposes of understanding the settlement.

There is limited historical information published regarding the establishment and development of Kupartiya. However, a brief background to the 'Kurungal mob', the people from various language/culture groups who worked on Christmas Creek Station prior to the Pastoral Award decision of 1968 can be found in the Centre for Aboriginal Economic Policy Research (CAEPR) Research Monograph No.29.

Broadly, and in summary, the CAEPR Research Monograph No.29 notes the following relevant historical information: In 1969, as a consequence of the Pastoral Award decision, over 200 Aboriginal people – the Kurungal mob – were forcibly relocated off Christmas Creek Station. In the following years, many of those people returned to land adjacent to the station boundary. In time, these people would establish Wangkatjunka, Ngumpan, Kupartiya and other smaller communities on Christmas Creek and Bohemia Downs Stations.

Kupartiya was established in the early 1980s. The Aboriginal Lands Trust Crown Reserve that Kupartiya is on was created in September 1994.

The resident community at Kupartiya generally self-identify as being part of the Walmajarri and/or Wangkatjungka culture/language groups and maintain strong cultural links with the Kurungal communities; Wangkatjugka and Ngumpan

1.4 Previous Layout Plan

There is no previous Layout Plan for Kupartiya.

2 COMMUNITY PROFILE

2.1 Population

Table 5 – Population

Existing Population :	40
Aspirational Population :	80
Design Population :	80

Existing Population

Estimating and predicting populations in Kupartiya is difficult because Aboriginal people tend to be mobile in terms of housing and living arrangements. Populations can increase and decrease quite rapidly based on family, cultural or administrative factors (see Taylor 2006 for a useful discussion of demographic trends on remote Indigenous populations).

Population estimates also vary depending on the time of year of enumeration, methods and sources by which data are collected.

As Kupartiya is not listed by the Australian Bureau of Statistics (ABS) as an Indigenous Area (IARE), there are no population estimates available from that source.

The population estimates in Table 6 are sourced from the Environmental Health Needs Survey (EHNS) undertaken by the former Department of Indigenous Affairs (DIA) and data obtained from the Department of Communities (DoC) (Housing). The majority of the population data from 1997 to 2019 shows a fairly stable population of between 30-40 people. There is one anomaly in this data and this is the population figure from the 2004 EHNS. It is considered likely that this figure is inaccurate and the population has remained relatively stable over this time.

Table 6 – Population figures of Kupartiya by source 1997-2019

	1997	2004	2008	2013	2019
Total persons	37	53	27	50	40
Source	EHNS	EHNS	EHNS	Community	DoC

In addition to the above, in February 2013 Kupartiya Incorporated estimated the total population of Kupartiya to be 50.

There are considerable population differences between the data sources which is typical when estimating the population of remote Aboriginal settlements. Based on the above table and community information, this report assumes that the current permanent population of Kupartiya is approximately **40** people.

Aspirational Population

Aspirational population refers to the resident community's expected future population in the settlement within the next 10-15 years. The population of Kupartiya is projected to increase through natural growth (births over deaths).

The community advised that there was the potential that a further 30 people would move to the community should suitable housing and infrastructure be provided. The aspiration for

Kupartiya Incorporated is for suitable housing and infrastructure to be provided at Kupartiya in order to accommodate an aspirational population of **80** people over a 10-15 year period.

Design Population

The design population is intended to reflect the number of people the Layout Plan plans for, taking into consideration the community's aspirational population, the estimated population growth rate over the years and the servicing and physical constraints of the community.

The aspirational population reasonably reflects the likely growth of Kupartiya over the next 10 to 15 years. To reflect the aspirations of the Kupartiya community and expected growth, the design population of LP1 is **80**.

Although LP1 currently shows 33 'Residential' SL-lots, it is not anticipated that every SL-lot will be built on. The layout design has been prepared in consultation with the community to provide suitable housing location options. The actual population will depend on the future provision of housing and essential services.

2.2 Governance

Incorporated Community

Kupartiya was previously governed by the Kupartiya Aboriginal Corporation, however this corporation was deregistered in 2003.

The Gooniyandi Aboriginal Corporation RNTBC (GAC RNTBC) is a Registered Native Title Body Corporate (RNTBC) representing the Gooniyandi Traditional Owners. GAC RNTBC was first incorporated as an Aboriginal Corporation and registered with the former Registrar of Aboriginal Corporations in 2013 under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (the CATSI Act).

The objectives of GAC RNTBC are to:

- To be the Registered Native Title Body Corporate for the area subject to the native title claim filed by the Gooniyandi native title claimants (WAD 6008 of 2000);
- Perform the functions of a Prescribed Body Corporate under s 56 and s 57 of the Native Title Act;
- To act as trustee for the Native Title Holders in respect of any native title determination under s 56 and s 57 of the Native Title Act;
- To exercise all powers necessary and/ or convenient to perform its functions for the benefit of the Common Law Holders of the rights and interests in the Determination Area(s) in all matters relevant to these objects;
- To comply with the terms of any agreements between the Corporation, the State and other parties, to which this Corporation is a party;
- To protect, preserve and advance the traditions, laws, languages, culture and customs of the Gooniyandi People;
- To help build trust and friendship between Gooniyandi People and other Aboriginal and non-Aboriginal people;
- To represent traditional owners in all matters related to the ownership, use,

occupation of, and access to the Determination Area(s); and

- To promote the economic, social and cultural aspirations and well-being of the Gooniyandi People. Within this objective to take advantage of the investment and commercial opportunities that arise or relate to native title holders and to exploit those opportunities to generate assets and funds for charitable purpose and employment opportunities for native title holders.

GAC RNTBC is registered with the Office of the Registrar of Indigenous Corporations (ORIC). Documents on GAC RNTBC can be obtained from www.oric.gov.au

There are three non-native title corporations that have interests in Kupartiya, being:

- Kupartiya Incorporated.
- Bohemia Downs Pastoral Aboriginal Corporation.
- Kurungal Council Incorporated.

Bohemia Downs Pastoral Aboriginal Corporation manages the existence and affairs of the Bohemia Downs pastoral station.

The community receives support and governance through their inclusion in Kurungal Council Incorporated. Kurungal Council Incorporated is an organisation situated around a group of communities in the central west Kimberley, south east of Fitzroy Crossing. The communities include Wangkatjunga, Kupartiya, Ngumpan and a number of seasonally inhabited outstations.

2.3 Land Tenure

Kupartiya is located on a crown reserve and part of the Bohemia Downs pastoral lease. This is considered an appropriate form of tenure at present as all housing and infrastructure are contained within the Crown Reserve. Tenure details are provided below.

<i>Tenure</i>	Crown reserve 43061
<i>Lot Details</i>	Lot 86
<i>Status Order/Interest</i>	Reserve under management order
<i>Primary Interest Holder</i>	Aboriginal Lands Trust
<i>Area</i>	611 ha.
<i>Limitations/Interests/ Encumbrances/Notifications</i>	For the purpose of use and benefit of Aboriginal inhabitants. Standard lease to Kupartiya Inc until 1/07/2100, lease ref. I324834

<i>Tenure</i>	part of Pastoral Lease PL N049593
<i>Lot Details</i>	Lot 51
<i>Status Order/Interest</i>	Leasehold
<i>Primary Interest Holder</i>	Bohemia Downs Pastoral Aboriginal Corporation
<i>Area</i>	13.4 ha (extent of Kupartiya community)
<i>Limitations/Interests/ Encumbrances/Notifications</i>	Subject to the terms and conditions set out in the said lease.

2.4 Native Title

The community is located within the Gooniyandi Combined #2 WAD6008/2000 (WC2000/010) native title determination, determined on 19 June 2013.

The Registered Native Title Body Corporate is Gooniyandi Aboriginal Corporation RNTBC.

For further information refer to the determination on the Federal Court of Australia website link, <http://www6.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2013/599.html>.

Further information regarding native title can be found on the National Native Title Tribunal website, <http://www.nntt.gov.au>

Background to Native Title in Australia

The *Native Title Act 1993* (NTA) enshrines in legislation the High Court Mabo decision, in which the common law of Australia formally recognised Indigenous land ownership through the continuing observance of traditional law and custom.

Native title is defined by section 223 of the NTA as:

the communal, group or individual rights and interests of Aboriginal people or Torres Strait Islanders in relation to land or waters where:

the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal people or Torres Strait Islanders; and b) the Aboriginal people or Torres Strait Islanders, by those laws and customs, have a connection with the land and waters; and c) the rights and interests are recognised by the common law of Australia.

Native title is therefore not a form of land tenure, such as a freehold estate or pastoral lease, but is the recognition of pre-existing rights and interests in country.

Under the NTA, registered native title claimants and registered native title bodies corporate (often referred to as PBCs) are entitled to the right to negotiate regarding proposed future acts which may affect native title rights and interests. Procedures for negotiation can either be in accordance with Subdivision J of the NTA or in accordance with alternative procedures agreed by both parties in the form of an Indigenous Land Use Agreement (ILUA).

Examples of future acts which may affect native title rights and interests include mining exploration or the construction of public works (such public housing).

Native title rights and interests are also variously affected by different forms of land tenure. For example, native title rights and interests are generally extinguished by valid grants of freehold tenure (see Division 2B of the NTA and also Ward and Lawson decisions) while native title may co-exist with pastoral leases, but if there is any inconsistency between the two then pastoral interests are likely to prevail (see Wik decision).

Additionally, ILUAs can be entered into so that agreement can be made about instances when the non-extinguishment principle applies.

More information about native title can be obtained from the [National Native Title Tribunal](http://www.nntt.gov.au).

2.5 Aboriginal Heritage

It should be noted that both registered and unregistered sites of cultural significance to Aboriginal people are protected under the State Government's *Aboriginal Heritage Act 1972*, but only registered sites are recorded on the Department of Planning, Lands and Heritage [Aboriginal Heritage Information System](#) (AHIS) database.

Registered Sites

There are 4 registered heritage sites in the vicinity of Kupartiya and surrounding communities (as of June 2020). A summary of the sites are listed below:

- Registered Aboriginal Site 12647, Tjilatji/Christmas Creek. Type: Mythological, skeletal material/ burial.
- Registered Aboriginal Site 12772, Jawanjawan North. Type: Ceremonial.
- Registered Aboriginal Site 12773, Jawanjawan South. Type: Ceremonial.
- Registered Aboriginal Site 12774, Bohemia Store. Type: Repository/ cache.

Any future development at the community, including implementing LP1, should therefore be undertaken in consultation with the community and the traditional owners to ensure adequate avoidance of sites.

Culturally Sensitive Areas

Any future development at the community, including implementing LP1 should be undertaken in consultation with the community and the traditional owners to ensure adequate avoidance of culturally sensitive areas.

Built Heritage

A search of the State Heritage Office's *inHerit* database has been carried out and there are no protected built heritage sites in Kupartiya.

Impact of Aboriginal Heritage on Urban Growth in Remote Aboriginal Communities

The *Aboriginal Heritage Act 1972* (AHA) was introduced in Western Australia to provide automatic protection for all places and objects in the State that are important to Aboriginal people because of connections to their culture. The Department of Planning, Lands and Heritage maintains a Register of Aboriginal Sites as a record of places and objects of significance to which the AHA applies. It should be noted that unregistered sites of cultural significance to Aboriginal people are also protected under the State Government's *Aboriginal Heritage Act 1972*, but only registered sites are recorded on the Department's database and are generally included in the Aboriginal Heritage Inquiry System.

The presence of an Aboriginal site places restrictions on what can be done to the land. Under the AHA it is an offence for anyone to excavate, damage, destroy, conceal or in any way alter an Aboriginal site without obtaining the appropriate approvals. Anyone who wants to use land for development or any other cause must therefore investigate whether there is an Aboriginal heritage site on the land.

Contact should be made with the relevant Native Title Representative Body in the first instance.

No formal heritage assessment under the *Aboriginal Heritage Act 1972* has been undertaken as part of the preparation of LP No. 1 and the LP Background Report and LP map-set do not represent clearance under that Act in any way. It is expected that any future development of housing and other infrastructure on the community be undertaken in consultation with the community and native title holders and cleared in accordance with the provisions of the AHA.

2.6 Community Aspirations

Providing a sufficient standard of living for the population of Kupartiya and future residents is dependent on maintaining and improving the existing facilities and making sure that there is the right mix of housing and other uses.

There is an understanding that development of Kupartiya is something that has taken time, and will happen over many years.

The ideas for improvements to the facilities noted by the resident community when developing the Layout Plan in 2012 are listed below. Not all of these aspirations can be incorporated into the LP, but have been noted as a record of a more general community improvement plan.

1. Establish the community store.
2. Establish a new community office.
3. Establish the recreational land uses, particularly a football oval on SL-lot 30.
4. Establish Rural SL-lot 31 to grow fruit and vegetables for the community.
5. Develop the new residential area to the east of the community living area (SL-lot 17, 19, 21, 22, 23 and 24) as a suitable expansion area for community housing in the future.

3 INFRASTRUCTURE & SERVICES

Kupartiya is a part of the Remote Essential and Municipal Services (REMS) program conducted by the Department of Communities (Housing).

3.1 Electricity Supply

Electricity supply at the community is not regulated. The power station is located at SL-lot 29.

The power station consists of (2 diesel gensets with manual control/change over) with electricity supply operated by community with repair, maintenance and capital works support provided by DoC (Housing) via REMS.

The Kimberley Regional Service Providers (KRSP) 2007 asset report stated that the power station, compound and fencing are all in a good condition, assisting with health and safety considerations.

The community and DoC have advised the current capacity (70kw) adequately caters for the existing population, however further investigation and usage measuring will be required to determine the potential for additional housing and general community growth.

3.2 Water Supply

The community water supply is not regulated. Water is pumped from one operational bore located on SL-lot 29.

This is an electric bore connected to the power house with elevated tank storage and UV disinfection system. The power house, bore and tank are fenced to assist in protecting these assets for health and safety purposes.

A Community Asset Condition Report completed in 2007 by KRSP states that the community bore and disinfection system are in good condition. The bore water supply and quality does not meet regulatory standards but is not currently considered a health risk. The water quality and quantity is monitored through the REMS program.

It is recommended a Drinking Water Source Protection Plan be prepared, so that a new water source location may be identified and suitably protected.

3.3 Wastewater

The community houses are connected to septic tanks and leach drains, which are the responsibility of the community.

3.4 Rubbish Disposal

The community disposes of waste in an unregulated rubbish tip located at SL-lot 41. The rubbish tip consists of a fenced pit and is maintained by KRSP.

The community advised that the rubbish tip (SL-lot 41) is a new tip, and previously rubbish was being disposed of just to the south of the community. The new location was considered appropriate as the prevailing winds blow from the south to north, therefore taking and odour associated with the rubbish tip away from the community.

3.5 Airstrip

The community airstrip located at SL-lot 60 is an unsealed Civil Aviation Safety Authority (CASA) Code 2 airstrip and is in a good condition.

The airstrip is roughly 1.5 kilometres to the north of the community living area. Mail and other supplies are provided to the community once a week/fortnight via the airstrip. The airstrip is maintained via KRSP to ensure emergency assistance is available.

3.6 Internal Road Layout

The internal road layout is fairly basic as the community has generally developed around one unsealed road.

The LP proposes an additional settlement layout (SL) road to the east leading to the new residential area and including access to proposed recreation area. There are two other SL roads leading to the rubbish tip and airstrip. The LP has named all existing and proposed roads.

It is recommended that the main community SL road (Kupartiya Road and First St) be sealed to alleviate access issues during the wet season, and dust issues year-round.

3.7 Access & Dedicated Roads

The main access to the community is via the Great Northern Highway which is sealed. Kupartiya is approximately 12km from the Great Northern Highway and 120km south-east of Fitzroy Crossing.

The unsealed road which runs from the Great Northern Highway into the community, Bohemia Downs Road, is not dedicated. This road is subject to flooding and can be cut off up to two weeks during the wet season.

The Shire of Halls Creek maintains the Bohemia Downs Road on an irregular basis.

3.8 Community and Social Services

The following community facilities and social services are located at Kupartiya.

Store

At the time of consultation (2012) there was no store at Kupartiya, Wangkatjungka is utilised for this purpose. The community has expressed its desire to have a community store and the LP has reflected this at SL-lot 26 with a commercial land use.

Office

The community runs all administrative pursuits from SL-lot 34. The community member will be living in this house for the foreseeable future and carrying out office duties in a 'home-office' capacity.

School

There is no school at the community. Children are taken to Wangkatjungka to the Wangkatjungka Remote Community School on a shared community school bus. This school caters for children in kindergarten to year 7 and is approximately a 50 minute drive from Kupartiya.

Clinic

The community accesses the part-time clinic at Wangkatjunga, which is approximately a 50 minute drive from Kupartiya. The Wangkatjunga clinic is a fit-for-purpose and culturally secure clinic with pathology, consulting rooms, a family room and separate men's and women's waiting areas. The clinic employs a registered nurse who is able to provide a comprehensive range of services, with visiting clinicians from Fitzroy Crossing attending the clinic on a regular basis.

Workshop

There are workshop/industrial facilities located on SL-lot 43 associated with Bohemia Downs Station. In addition to this, a number of community members have their own sheds to carry out related tasks.

Recreation Areas

There is currently one basketball court located on SL-lot 27.

A number of recreational land uses have been allocated at SL-lots 25, 27, 28 and 30, with the latter being identified by the community as the preferred location for a football oval.

Garden

The community has identified SL-lot 31 as a future rural site for the purpose of growing fruit and vegetables for community consumption and potentially commercial ventures.

Cemetery

There is a cemetery located at the southern end of the settlement area, on SL-lot 62.

4 HOUSING

4.1 Residential Areas

Kupartiya is a part of the Remote Essential and Municipal Services (REMS) program conducted by the Department of Communities (Housing).

The houses are situated along a single SL road which runs parallel with Christmas Creek.

4.2 Number & Type of Dwellings

There are currently 13 dwellings in the community, 11 of which are managed under a HMA. This information was provided by DoC in February 2020.

4.3 Future Residential Development

LP1 in consultation with the community has identified potential new residential areas to the east of the living area. Based on the above, the LP provides for existing and future housing land as follows:

- Priority 1 Refurbishment of all housing within the existing living area where appropriate.
- Priority 2 SL-lots 17, 19, 21, 22, 23 and 24 as potential new residential areas for future growth.

The new residential expansion areas have been selected in consultation with the community in a broad future growth sense. Further investigation will be required in terms of suitability, and assessment of technical information regards essential service capacity to meet increased population.

5 CONSTRAINTS AND LIMITATIONS

5.1 Flood Hazard

There is no flood data available for Kupartiya.

Christmas Creek and its surrounding creek systems are the dominant watercourse features in the area. The catchment of the Fitzroy River is significant and generally all land in proximity to it are subject to considerable flooding and inundation. Such problems cause the community difficulties with access to food and fuel supplies over the wet season, with roads being cut off for weeks at a time.

Christmas Creek runs to the south of the community creating a constraint for any development in that area. The community have also provided anecdotal information regards regular flooding to the north of the community between the living area and the rubbish tip. This has been represented by a 'Waterway' land use on the LP.

In essence the community is limited to a slender 'island' development formation which will generally progress to the west or east.

5.2 Drainage

Drainage information is as per Section 5.1 of this report. No further flooding or drainage data is available at this stage.

5.3 Drinking Water Source Protection Plan

There is currently no Drinking Water Source Protection Plan (DWSP) for Kupartiya. As such there is no way to identify any risk factors to the settlements drinking water supply such as potentially hazardous land uses and community activities.

It is therefore recommended a DWSP is prepared so that a new water source may be identified and new production bores be established in a suitable location.

5.4 Bushfire

The community is designated as bushfire prone under SPP 3.7 Planning in Bushfire Prone Areas (SPP 3.7). It is unknown whether the community has any bushfire management emergency/evacuation procedures in place.

5.5 Exclusion Boundaries

The exclusion boundaries shown on the map-set are in accordance with the WAPC's *Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries (2012)*.

6 PLANNING FRAMEWORK

6.1 State Planning Policies

State Planning Policies (SPPs) are prepared and adopted by the WAPC under statutory procedures set out in section 26 of the *Planning and Development Act 2005*.

The WAPC and local governments must have 'due regard' to the provisions of State Planning Policies when preparing or amending town planning schemes and when making decisions on planning matters. The State Administrative Tribunal is also required to take SPPs into account when determining appeals.

The following SPPs were given due regard in the preparation of LP1:

- SPP 3.0 – Urban Growth and Settlement;
- SPP 3.2 – Aboriginal Settlements;
- SPP 2.7 – Public Drinking Water Source; and
- SPP 3.7 – Planning in Bushfire Prone Areas.

6.2 State Planning Policy 3.2 - Aboriginal Settlements

SPP 3.2 was published in the Government Gazette on 11 May 2011. The objectives are to:

- Provide for the recognition of Aboriginal settlements through local planning schemes and strategies; and,
- Collaboratively plan for the orderly and coordinated development of Aboriginal settlements.

SPP 3.2 defines Layout Plan as the valid planning instrument applicable to Aboriginal settlements and prescribes the manner in which they are to be prepared, authorised and amended. SPP 3.2 requires that local governments classify land as 'settlement' zone in a local planning scheme.

6.3 Shire of Halls Creek

Halls Creek Local Planning Scheme No. 2

The Shire of Halls Creek Local Planning Scheme No.2 (LPS 2) was gazetted on 17th September 2019. Kupartiya is zoned 'Settlement' under LPS 2. The purpose of this zone is to identify existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places. Under the Scheme, preparation and endorsement of a layout plan in accordance with State Planning Policy 3.2, and ensuring that development accords with a layout plan, are requirements of the settlement zoning (see current Scheme zoning in Figure 4).

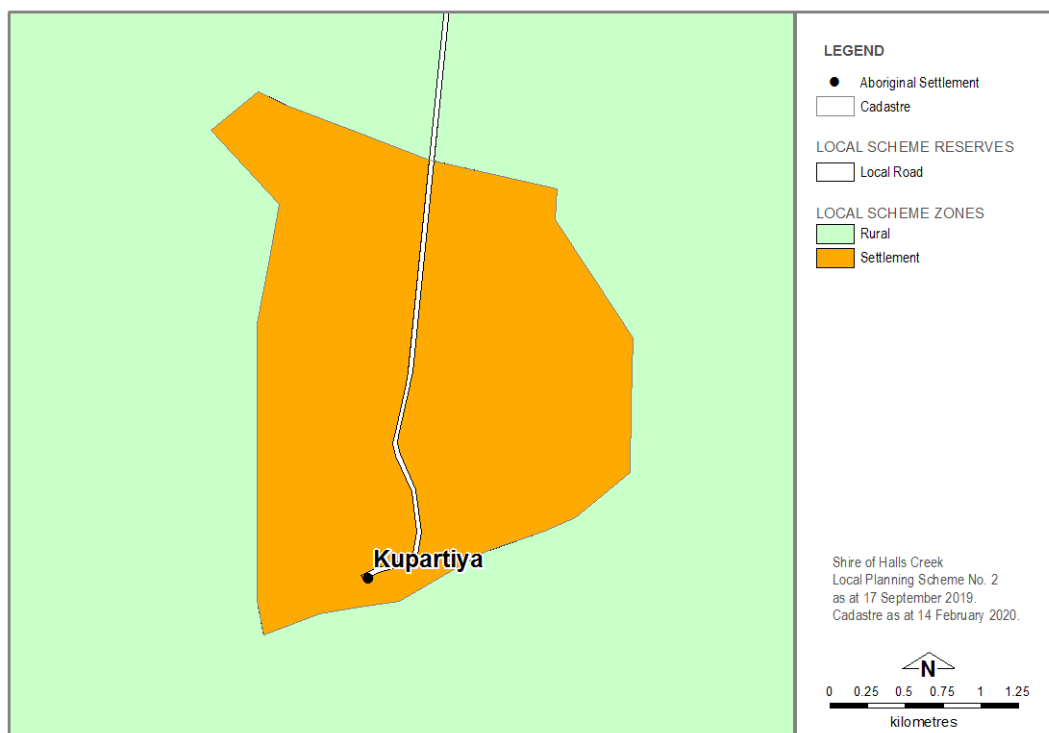


Figure 4 - Land classification under Shire of Halls Creek LPS 2, Kupartiya

Local Planning Strategy

The Shire of Halls Creek Local Planning Strategy (endorsed by the WAPC 25th May 2016) provides a vision for the future planning, growth and development of the Shire over the next 10 years.

The strategy notes that layout plans are required to be prepared for land zoned 'Settlement' within the Local Planning Scheme and that it is recommended that an Economic Development and Service Delivery Strategy be prepared to provide overarching guidance for the medium to long term economic development, and infrastructure provision and services delivery.

7 ENDORSEMENTS

Kupartiya Incorporated Endorsement

Kupartiya Layout Plan No.1

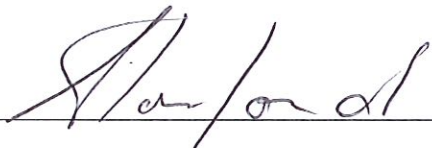
C/- PO Box 35
Fitzroy Crossing WA 6765

The Kupartiya Inc. (representing the resident community) hereby adopts the **Kupartiya Layout Plan 1 (2013)** as a guide for future development within its boundaries.

The elected council acknowledges that the layout represents community aspirations for future development, and hereby adopts the plan, report and provisions at the meeting of Council held on:


The 18th Day of MARCH 2013

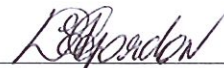
Adopted by Kupartiya Incorporated:

_____	_____ 
_____	_____ <u>ALAN LAWFORD</u>

Chairperson
[Please print and sign name]

Councillor

_____ 
_____ SELENA O'MEARA
Councillor

_____ 
_____ DEBORAH GORDON
Councillor

Councillor

Councillor

Gooniyandi Aboriginal Corporation (RNTBC) Endorsement

Kupartiya Layout Plan No.1

C/- Kimberley Land Council
36 Pembroke Road
BROOME WA 6725

The Gooniyandi Aboriginal Corporation (RNTBC) on behalf of the Gooniyandi Traditional Owners hereby adopts the **Kupartiya Layout Plan No. 1 (2013)** as a guide for future development within its boundaries.

It is acknowledged that the layout represents community aspirations for future development, and hereby adopts the plan, report and provisions at the meeting held on:

TheFifth.....Day ofSeptember.....2013

Adopted by the Gooniyandi Aboriginal Corporation (RNTBC):

Sign: _____

Name: EMILY CARTER

Director
[Please print and sign name]

Sign: _____

Name: Lynette J. Shaw

Director
[Please print and sign name]

Western Australian Planning Commission Endorsement

Kupartiya Layout Plan No.1



140 William Street
Perth WA 6000

The Western Australian Planning Commission hereby endorses the **Kupartiya Layout Plan No.1** as a guide for development to ensure proper and orderly planning within the community area

The 22 Day of October 2013

Signed for and on behalf of the Western Australian Planning Commission

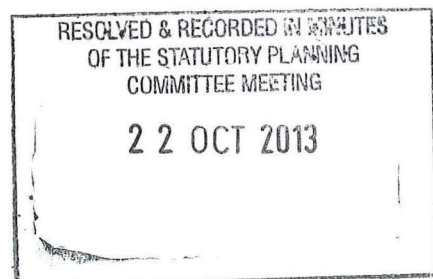
A handwritten signature in dark ink, appearing to read "Rigali", written over a horizontal line.

an officer of the Commission duly authorised by the Commission pursuant to section 24 of the *Planning and Development Act 2005* in the presence of

M. Wieclaw

Witness

31.10.2013 Date



CONSULTATION

Preparation of this Layout Plan is the result of consultation with the community representatives and a range of agencies, authorities, non-government organisations during 2013.

Information was obtained from the following sources:

Organisation	Date
Kupartiya Incorporated	13 Feb 2013
	8 March 2013
Australian Bureau of Statistics	5 March 2013
Department of Housing	13 Feb 2013
	5 March 2013
Shire of Halls Creek	12 March 2013
Gooniyandi Aboriginal Corporation RNTBC	5 Sept 2013

REFERENCES

Bureau of Meteorology 2020 Monthly Bulka Rainfall and Fitzroy Crossing Aero Temperatures. Available at <http://www.bom.gov.au/climate/data/>

Department of Communities (Housing) 2019 Property Tenancy Management System (PTMS) database <https://catalogue.data.wa.gov.au/dataset/aboriginal-communities-and-town-reserves>

Department of Indigenous Affairs (DIA) 1997, 2004 and 2008 Environmental Health Needs Survey of Indigenous Communities in Western Australia. Government of Western Australia.

Department of Planning 2012 Aboriginal Settlement Guideline 3: Layout Plan Exclusion Boundaries, Government of Western Australia

Department of Planning, Lands and Heritage 2020 Aboriginal Heritage Inquiry System <https://www.dplh.wa.gov.au/information-and-services/online-services/aboriginal-heritage-inquiry-system>

Hunt, J. & Smith, D. & Garling, S. & Sanders, W. (editors). 2008 *Contested Governance*. CAEPR Research Monograph No.29. ANU: Canberra.

Kimberley Regional Service Providers 2007 Kupartiya Community Asset Condition Report

Memmot, P. & S. Long & M. Bell & J. Taylor & D. Brown 2004 *Between Places: Indigenous Mobility in Remote and Rural Australia*. Australian Housing & Urban Research Institute, University of Queensland.

National Native Title Tribunal 2020 Native Title Vision <http://www.nntt.gov.au/assistance/Geospatial/Pages/NTV.aspx>

Office of the Registrar of Indigenous Corporations 2020, <https://www.oric.gov.au/>

Taylor, J. 2006 *Population and Diversity: Policy Implications of Emerging Indigenous Demographic Trends*. CAEPR discussion paper No. 283/2006. ANU: Canberra.

WAPC 2011 State Planning Policy 3.2 - Aboriginal Settlements, Government of Western Australia

WAPC 2019 Shire of Halls Creek Local Planning Strategy, <https://www.dplh.wa.gov.au/lps> Government of Western Australia

AMENDMENTS

Kupartiya Layout Plan No. 1

Amendment No. 1

Proponent : Kurungal Council Incorporated

Date : 11 July 2017

Reason for the Amendment

The existing Layout Plan for Kupartiya is required to be amended to accurately portray what is on the ground within the community.

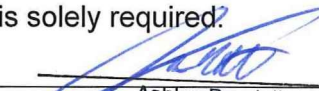
Initiated by the Kurungal Council Inc., Amendment 1 to Kupartiya Layout Plan 1 proposes to amend the current LP1 map-set to include the community cemetery to the south-west of the settlement. Amendment 1 will formally identify the cemetery and allow for a more coordinated approach to managing burials within Kupartiya.

Land Identification		Amendment description
1.	Recommended Settlement Zone (RSZ)	Extension of the existing Recommended Settlement Zone (RSZ) 215m to the south east;
2.	Proposed SL-lot 61	Creation of SL-lot 62 (the cemetery) to the south-west of the community at 75x150m.
3.	Proposed SL-lot 62	Splitting of SL-lot 48 to create a new SL-lot 61 (caused by the extension of Kupartiya road).
4.	SL-lot 16	change land use of SL-lot 16 from Residential to public utility

Endorsement:

In accordance with Planning Bulletin 108/2013 this amendment is minor in nature. As such, the endorsement of the Western Australian Planning Commission is solely required.

Determined on behalf of the Western Australian Planning Commission in accordance with the *Instrument of Delegation – Delegation to officers of certain powers and functions of the Western Australian Planning Commission*.


Ashley Randell
Director, Regional Planning Policy
Regional Planning
PN: 15151
Determination
11/7/17
date

Other Information:

This Layout Plan does not constitute development approval.

It is the responsibility of the developer to ensure that all relevant consents, approvals, licences and clearances are in place prior to commencing physical works on site. Organisations responsible for such matters may include landowner, local government, incorporated community council, native title representative body, Department of Environmental Regulation, Aboriginal Cultural Materials Committee, Environmental Protection Authority and Department of Water.

Proponent	: Department of Planning, Lands and Heritage
Date	: June 2020

Reason for the Amendment

The enactment of the Shire of Halls Creek Local Planning Scheme No.2 (LPS 2), gazetted on 17th September 2019, has resulted in the need to delete the majority of the 'Recommended Settlement Zone' and add the 'Settlement' zone to match the LPS 2. There will be a long thin portion that will remain 'Recommended Settlement Zone' running from north to south. This is due to the Shire of Halls Creek LPS 2 identifying a road that extends from the northern boundary to the southern boundary. This road is essentially a defined track. SL-road Airstrip Street has been slightly realigned to match this also.


DPLH has also undertaken an update of the Layout Plan background report and map-set to ensure that it remains up-to-date, accurate and fit-for-purpose. The updates include:

- Revising the population and housing data;
- Editing and reformatting the background report;
- Removing out of date text and references
- General update to the layout plan map-set

Land Identification		Amendment description
1.	All	Add 'Settlement' zone to match the Shire of Halls Creek LPS 2, retaining a long thin portion labelled 'Recommended Settlement Zone' extending from north to south.
2.	All	Update the Background Report.
3.	SL-road Airstrip Street	Minor realignment to SL-road Airstrip Street.

Endorsement:

In accordance with Planning Bulletin 108/2013 this amendment is minor in nature. As such, the endorsement of the Western Australian Planning Commission is solely required.

Determined on behalf of the Western Australian Planning Commission in accordance with the <i>Instrument of Delegation – Delegation to officers of certain powers and functions of the Western Australian Planning Commission.</i>	 26 June 2020
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Other Information:

This Layout Plan does not constitute development approval.

It is the responsibility of the developer to ensure that all relevant consents, approvals, licences and clearances are in place prior to commencing physical works on site. Organisations responsible for such matters may include landowner, local government, incorporated community council, native title representative body, Aboriginal Cultural Materials Committee, Environmental Protection Authority and Department of Water and Environmental Regulation.