

Munthamar

Layout Plan 1

Background Report

September 2011

Date endorsed by WAPC



Amendments

Amendment 1 - October 2012

Amendment 2 - January 2020



Department of **Planning,
Lands and Heritage**



Western
Australian
Planning
Commission

MUNTHAMAR LAYOUT PLAN 1

Munthamar Layout Plan No. 1 (LP1) was prepared by the former Department of Planning during 2009-2010 in partnership with Munthanmar Aboriginal Corporation (MAC), MG Corp and OES. The layout plan was prepared with a number of other Layout Plans prepared at that time in response to the outcomes of the Ord Final Agreement and the desires of the MG Dawang Land Trust and MG Corp. MG Corp (representing the traditional owners) and the Munthamar Community endorsed the Munthamar LP1.

Layout Plan 1 (LP1) was endorsed by the Shire of Wyndham-East Kimberley, on 21 June 2011 and the Western Australian Planning Commission (WAPC) endorsed the LP on 29 September 2011.

The WAPC endorsed one amendment in October 2012 to incorporate administrative changes to the map-set, no changes were made to the background report. The endorsed amendment is listed in part 6 of this report.

In January 2020 the background report was updated as a 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 The Amendment 2 background report update sought to keep all relevant information, while removing and replacing out-of-date references and data.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.

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.

CONTENTS

EXECUTIVE SUMMARY	4
DEVELOPMENT PRIORITIES	5
1 REGIONAL CONTEXT	6
1.1 LOCATION & SETTING	6
1.2 REGIONAL CULTURE & DEMOGRAPHY	6
1.3 REGIONAL HISTORY & ECONOMY	7
1.4 NATIVE TITLE.....	8
2 COMMUNITY PROFILE.....	10
2.1 POPULATION.....	10
2.2 GOVERNANCE & REPRESENTATION	11
2.3 LAND TENURE.....	12
2.4 ABORIGINAL HERITAGE.....	12
2.5 COMMUNITY ASPIRATIONS	13
3 EXISTING INFRASTRUCTURE & SERVICES.....	14
3.1 HOUSING	14
3.2 WATER SUPPLY	14
3.3 ELECTRICITY SUPPLY.....	15
3.4 WASTEWATER	15
3.5 FLOODING & DRAINAGE	15
3.6 ACCESS & DEDICATED ROADS	15
3.7 INTERNAL ROAD LAYOUT	15
3.8 RUBBISH DISPOSAL	16
3.9 COMMUNITY SERVICES.....	16
4 RECOMMENDATIONS.....	17
4.1 ESSENTIAL & MUNICIPAL SERVICE DELIVERY	17
4.2 JOINT ESSENTIAL SERVICE INFRASTRUCTURE	17
4.3 DRINKING WATER ANALYSIS AND PROTECTION.....	17
4.4 ROAD LAYOUT	18
4.5 FUTURE HOUSING.....	18
4.6 LOT NUMBERING	19
5 PLANNING FRAMEWORK	20
5.1 STATE PLANNING POLICIES.....	20
5.2 EXCLUSION BOUNDARIES.....	20
5.3 SHIRE OF WYNDHAM-EAST KIMBERLEY	20
6 ENDORSEMENTS.....	22
MUNTHANMAR ABORIGINAL CORPORATION ENDORSEMENT	A
MG DAWANG LAND TRUST ENDORSEMENT.....	B
SHIRE OF WYNDHAM-EAST KIMBERLEY ENDORSEMENT	C
WESTERN AUSTRALIAN PLANNING COMMISSION ENDORSEMENT	D
CONSULTATION & REFERENCES	E
AMENDMENTS	G

Community Contact Details

Representative Organisation	:	Munthanmar Aboriginal Corporation
Related Organisations	:	MG Corp MG Dawang Land Trust Pty Ltd Ord Enhancement Scheme

Acronyms

AHA	:	Aboriginal Heritage Act (WA) 1972
ATSIC	:	Aboriginal and Torres Strait Islander Commission
CR	:	Crown Reserve
DoC	:	Department of Communities (Housing)
DoW	:	Department of Water
DIA	:	Department of Indigenous Affairs
DPLH	:	Department of Planning, Lands & Heritage
EHNS	:	Environmental Health Needs Survey
ILUA	:	Indigenous Land Use Agreement (under the Native Title Act 1993)
KDC	:	Kimberley Development Commission
KRSP	:	Kimberley Regional Service Providers
KWAC	:	Kununurra Waringarri Aboriginal Corporation
MAC	:	Munthamar Aboriginal Corporation
LP	:	Layout Plan
MG Corp	:	Yawoorong Miriuwung Gajerrong Yirrgab Noong Dawang Aboriginal Corporation
NNTT	:	National Native Title Tribunal
NTA	:	Native Title Act (Commonwealth) 1993
NTRB	:	Native Title Representative Body
OES	:	Ord Enhancement Scheme
OFA	:	Ord Final Agreement (ILUA)
ORIA	:	Ord Irrigation Area
PBC	:	Prescribed Body Corporate (under the NTA, representing native title holders)
RAESP	:	Remote Area Essential Services Program
SL-lot	:	Settlement Layout Lot
SWEK	:	Shire of Wyndham East Kimberley
UCL	:	Unallocated Crown Land
WAPC	:	Western Australia Planning Commission

Layout Plans & the Development Process

Layout Plans provide a structure for future development. LP preparation includes with 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

Munthamar LP No. 1 (LP1) was prepared by the former Department of Planning during 2009-2010 in partnership with MAC, MG Corp and OES. LP1 is for Munthamar, as defined under the OFA.

The tables below summarise the main issues concerning planning, development and provision of services at Munthamar. These issues are covered in more detail in the body of this report.

Table 1 – Population

Design Population	:	30/35
Existing population	:	12
Existing Service Capacity	:	30
Aspirational Population	:	32

Table 2 - Infrastructure and essential/social service characteristics at Munthamar

Infrastructure/service Indicator	Community Characteristics
Drinking water	Water obtained from bore. No data available on quality or quantity.
Native title	The community falls within a determined native title claim (MG #1 - WAD6001/95) and a registered ILUA is in place.
Secure land holding(s)	All existing and proposed infrastructure on UCL. However, OFA ILUA provides for freehold CLA therefore tenure considered secure.
Flood / storm surge	No formal drainage measures in place but no damage to existing infrastructure is believed to occur.
Emergency assistance	Emergency services at Kununurra, approximately 20 minutes away by road.
Education	Education facilities at Kununurra, approximately 20 minutes away by road.
Health	Health facilities at Kununurra, approximately 20 minutes away by road.
Governance	Munthamar Aboriginal Corporation. No designated office at community.
Employment and enterprise opportunities	MAC income derived from agriculture, forestry, fishing. Future opportunities to sub-lease. Other employment opportunities in Kununurra.
Transport	Road access from Victoria Highway is via Crossing Falls Road and Fish Farm Road.
Food	Retail outlets at Kununurra, approximately 20 minutes away by road.
Electricity	Reticulated electricity supply from Kununurra provided by Horizon Power.

LP No.1 plans for future expansion of the community and formalises existing infrastructure and land-uses and provides a future lot layout and road design.

DEVELOPMENT PRIORITIES

The following initiatives, were developed by the community in 2010 and considered to be needed to implement LP No.1:

Within the next year:

1. Prepare an essential services strategy.
2. Provide filtration system to drinking water supply.
3. Construct a house on SL-lot 14.
4. Connect bore to reticulated power.

Within the next 5 years:

5. Prepare Drinking Water Source Assessment and Protection Plan.
6. Seal and formalise internal road network.
7. Clear, fill and drain SL-lots 10 -12 for long term housing.
8. Construct additional housing on SL-lots 10 -12 as required.

Within the next 10 years:

9. If required, future residential area opposite SL-lot 12 is to be cleared filled and drain for construction of additional housing (LP to be amended prior to works).

Implementing the LP

The implementation of this LP will rely on the energy and endeavour of the community members. The future growth of Munthamar 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 Munthanmar Aboriginal Corporation 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 REGIONAL CONTEXT

1.1 Location & Setting



Figure 1 - Location of Munthamar proximate to Kununurra

Munthamar is in the Shire of Wyndham-East Kimberley. It is located on the banks of the lower Ord River at the end of Fish Farm Road, approximately 20 kilometres from Kununurra.

The Ord River, known locally as *Gunanurang*, is one of Western Australia's major river systems. It has an estimated catchment of 50,000 sq km and flows from near Halls Creek in the south to the Cambridge Gulf in the north. This catchment is generally characterised by fertile soils and rich riparian systems.

The geography of the Ord River has significantly changed since the damming of the Ord in the 1970s. The Dam splits the river into the upper and lower Ord River systems. Whereas the river used to flow only seasonally, the dam has created a year-round flow of water suitable for irrigation purposes.

The settlement and river system lie in the wet-dry tropics, which is characterised by an extended dry season with most rainfall occurring during December-March. Rainfall is highly variable (Lund 2009).

1.2 Regional Culture & Demography

The broader Ord River catchment area from the Bow River junction in the south to the Cambridge Gulf in the north is the country that now comprises the Miriuwung Gajerrong native title determination areas and is the traditional country of Miriuwung, Gajerrong, Doolboong, Wardenybeng and Gija peoples (FCAFC 283 [2003] & FCA 1848 [2006]).

This catchment area consists of discrete land-holding units known locally as *Dawang*. Members of a Dawang (ie traditional owners), known as *Dawawang*, are the key decision-makers about their country under customary law. In the present-day situation some decisions about country are shared and jointly managed with agencies such as the former Department of Environment and Conservation, and former Department of Water (Hill et al 2009; DoW 2009).

Traditional rights and interests in country stem from the *Ngarangani*, the creative Dreaming period, when mythical ancestors travelled the country, made the river systems and landscape and its features. During their travels they provided the framework about how the social and physical world should be (Barber & Rumley 2003).

Successive determinations of native title in 2003 and again in 2006 demonstrate the continuing strength of cultural connections to country among traditional owners in the Ord valley and catchment despite impositions associated with European settlement, pastoralism, and the extensive irrigation scheme.

Aboriginal residents comprise about half the total population of the Ord Irrigation Area (ORIA). Aboriginal population growth is largely due to natural increase rather than in-migration. This means that, on a regional level, the Aboriginal population is younger, more permanent, stable, and fairly evenly comprised of males and females.

The non-Indigenous population on the other hand is more influenced by in-migration and seasonal employment and disproportionately comprised of working-aged males (KLC 2003; Taylor 2003).

Whereas the non-Indigenous population is concentrated in the Kununurra townsite, the Aboriginal population is more dispersed, with many living in smaller settlements such as Munthamar.

1.3 Regional History & Economy

As a population, local Aboriginal peoples have been integral to the historical development of the Ord Valley and East Kimberley. Firstly as integral labour to the pastoral economy, and later by providing a permanent and stable population for the provision of a government service economy. The inundation and irrigation of traditional country for the integration of the region into a market economy was at a direct but largely unrecognised cost to Miriung and Gajerrong peoples (see Skyring 2004; Redmond & Skyring 2009).

Station life

The initial occupation along the Ord River by pastoral interests from the 1880s was characterised by violence (Redmond & Skyring 2009). Aboriginal people at that time however were the only large and permanent population in the Kimberley, so by the 1920s were used as labour on stations such as Argyle Downs, Texas Downs, Lissadell and Ivanhoe. State legislation such as the *Native Administration Act 1936* (WA) bonded Aboriginal labour to pastoral leaseholders. The pastoral economy in the East Kimberley was predominantly made-up of an Aboriginal workforce until the 1970s. While this enabled many people to remain on traditional country, the workforce was paid in rations until equal wages legislation was introduced in the 1960s. This had the effect of marginalising Aboriginal people, over successive generations, from the regional economy even though their labour was integral to it (Skyring 2004; Jebb 2002).

By the mid 1950s serious consideration was being given by Federal and State governments to the development of the Ord River for irrigation purposes. The introduction of Commonwealth legislation in 1958 and 1968 saw the Federal government provide significant funding for the river's development. Construction of the Diversion Dam (ie Lake Kununurra) began in 1961 and was completed in 1963. By 1971 much of Argyle station, and other pastoral leases, had been flooded for the creation of the Ord Dam ('Lake Argyle'). Local Aboriginal people were not consulted in the planning and development of the Dam and broader irrigation area but were the population most affected by the river's development and the ensuing change to the natural environment and associated residential dislocation (Skyring 2004; see also Barber & Rumley 2003).

Town life

Kununurra townsite was established in 1960 on an excision of Ivanhoe Station on the Ord River, initially as a Water Authority centre for the irrigation project. It was gazetted as a town in 1961 and has since become the region's main administrative centre.

The period from the 1970s until the 1980s can be characterised by the increasing urbanisation of Aboriginal populations in the Ord catchment. During this period, after the introduction of equal wages legislation and the creation of the irrigation scheme, relatively large numbers of former station workers moved into centres such as Kununurra, with an associated shift away from economic engagement in the private sector to an engagement in the government sector in the form of CDEP (Taylor 2003). Nulleywah reserve, on the outskirts of the town centre, was established in the 1980s as accommodation for people who had migrated from surrounding pastoral stations.

Voting rights in local government in Western Australia were restricted until 1985 to owners and occupiers of rateable property. This had the effect of excluding most Aboriginal people in the Shire of Wyndham-East Kimberley from local representation as Aboriginal people have generally lived on non-rateable land (Rumley H. & D. 1988).

There was no formal land-use planning of the Nulleywah reserve in Kununurra until the first layout plan was prepared as late as 1997 (Connell Wagner 2002). Poor living conditions in town spurred some Miriwung and Gajerrong family groups in the 1980s to establish camps and living areas at locations away from the town but within proximity to town services.

Community life

Permanent dwellings were established in Munthamar in the early 1990s. Prior to that community members lived in self-made shacks in the vicinity, on what is now the Mud Springs reserve.

The initial dwellings were self-made shelters and not connected to reticulated power and water. While living conditions were modest, the newly established camp offered space away from town life. Ruins from the initial camp site remain.

As is detailed below, the creation of community living areas for most Miriwung Gajerrong settlements was formalised through the native title process under the Ord Final Agreement in 2006. A Community Living Area for Munthamar settlement is also provided for under the OFA but is yet to be formalised.

Munthamar Aboriginal Corporation contributes to the regional economy in the present day through the agricultural and fishing enterprises.

1.4 Native Title

Native title issues affecting Munthamar

Munthamar settlement falls within the Miriwung Gajerrong #1 native title determination area and is principally comprised of native title holders.

The application for determination of native title by Miriwung Gajerrong peoples comprised two claim areas, Miriwung Gajerrong #1 (WAD6001/95) (MG #1) and Miriwung Gajerrong #4 (WAD124/04) (MG #4). The two combined determination areas total approximately 14,000 sq km.

The native title holders referred to in this report refer to both determination areas. Separate PBCs exist for MG #1 and MG #4 determinations respectively.

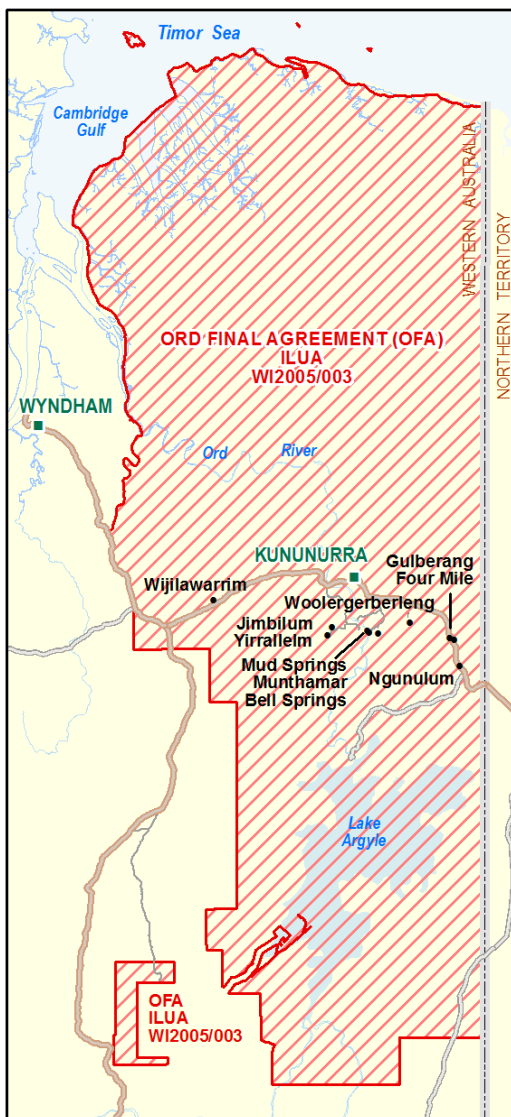
Ord Final Agreement

Munthamar falls within the Ord Final Agreement area, which is an 'area agreement' ILUA under the NTA and resolves native title issues associated with both the MG #1 MG #4 determination areas. The ILUA, commonly referred to as the 'OFA' or 'Ord Stage 2 Agreement', was registered with the National Native Title Tribunal in August 2006.

The area subject to the OFA is shown in the map in Figure 2.

Key features of the OFA include:

- Recognition of Miriwung and Gajerrong peoples as the traditional owners for Kununurra and surrounding areas;
- The State's acquisition of 65,000ha of land for agricultural, residential and industrial development of Ord Stage 2;
- The creation of six new conservation parks and their joint management with DEC. The parks are held under freehold title by MG Corp and leased to the State;
- Clarification and agreement as to instances where native title is extinguished (including the granting of freehold titles) and where native title is not extinguished;



- The establishment of the Ord Enhancement Scheme (OES), to redress social, cultural and economic impacts that development of Ord Stage 1 has had on Miriwung and Gajerrong peoples, including the flooding of traditional country to create Lake Argyle and associated displacement of people;
- The creation of a 50,000ha freehold title (Yardungarrl) and 19 Community Living Areas.

The production of LP No.1 in collaboration with the Munthamar community is therefore an indirect outcome of the broader native title process and the OFA.

Figure 2 - Area subject to Ord Final Agreement & location of settlements

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 rights and interests in land 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 freehold or a crown lease. Rather it is the recognition of pre-existing rights and interests in country. Traditional rights and interests in country may co-exist with other non-Indigenous interests in some instances.

Under the NTA, native title holders and registered claimants are entitled to the right to negotiate regarding proposed future acts which may affect claimed or held native title. Examples of future acts which may affect native title rights and interests include mining exploration, the construction of public works (such as public housing), and the granting of certain forms of land tenure (such as freehold).

Also under the NTA, agreements called ILUAs can be entered into to clarify, eg, future acts that will not extinguish native title or how traditional owners are to be compensated for the extinguishment of traditional rights and interests.

More information about native title can be obtained from the [National Native Title Tribunal](#).

2 COMMUNITY PROFILE

2.1 Population

Estimating and predicting populations in Aboriginal communities 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. The community members of Munthamar have close affiliations with other settlements in the MG Determination Area and there are regular movements of people throughout the region.

The Australian Bureau of Statistics has advised that recent census data for Munthamar is unavailable as the settlement was not included as a discrete collector district in the 2001, 2006, 2011 or 2016 censuses. The only known published population estimates for Munthamar are from the 2004 and 2008 Environmental Health Needs Survey (EHNS), undertaken by the former Department of Indigenous Affairs in 2004 and 2008.. These are:

Population of Munthamar	2004 EHNS	2008 EHNS
Total persons	10	12

In addition to the above, a key source of population data is from the community itself. Community members advised that the usual permanent population of Munthamar is approximately 10 people. In addition to the permanent population, the community advised that there are up to 20 members of their extended family who periodically stay at Munthamar on a temporary basis, typically on weekends and school holidays.

Based on the available data, the population of Munthamar is estimated to be 12 people.

Aspirational population

Aspirational population refers to the future population as desired by the existing community.

Community members have advised that there are up to 20 members of their extended family who currently live in Kununurra and elsewhere, but who would relocate to Munthamar if sufficient housing were available. Including the existing population, the aspirational population for Munthamar may be up to 32 people.

Existing Service Capacity

Munthamar is connected to the Horizon Power main grid for power supply. There are therefore no restrictions to electricity.

Drinking water quantity and quality is unknown. (see section 3)

The risk of contaminating the existing drinking water source is low. Well placed additional housing will not increase the risk of contamination to the settlement's drinking water supply. (see section 3)

The total existing services capacity population for Munthamar is 100 people.

Design population

Design population refers to the number of residents that the LP plans for. The design population takes into consideration the community's aspirational population, available population growth data, and the servicing and physical constraints.

One of the objectives of the LP is to ensure that community residents are provided with an appropriate level of services and housing throughout the 15 year time frame of the LP, by coordinating infrastructure provision with population growth.

As Munthamar is connected to the reticulated electricity service, the provision of an adequate drinking water supply is the main constraint to the growth of the settlement. Although the long term sustainability and quality of the groundwater supply is unknown, the existing drinking water supply is adequately removed from incompatible land uses and is not at immediate risk of contamination. The existing level of essential service provision is therefore capable of meeting the requirements of the aspirational population.

In light of this, the design population for the LP is 35 people.

2.2 Governance & Representation

Over time Miriwung and Gajerrong peoples have developed their own sophisticated formal governance structures, at various spatial scales to assist with the delivery of services and local representation.

The various governance structures that affect the planning and development of Munthamar are summarised below.

Incorporated Community

The community is managed through its incorporated body - Munthanmar Aboriginal Corporation (MAC). MAC was incorporated under the *Aboriginal Councils and Associations Act 1976* in 1983.

The aims of MAC are as follows:

- a) support the social development of its members in all ways.
- b) help to bring about the self-support of its members by the development of economic projects and industries;
- c) support education, job training, health services, work and housing for its members;
- d) help and encourage its members to manage their affairs on their own lands;
- e) help and encourage its members to manage to keep and renew their traditional culture;
- f) help to build trust and friendship between its members and other people;

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

Dawang Council

The 16 Dawang that comprise the traditional lands of Miriwung Gajerrong peoples are represented by an over-arching Dawang Council. Membership of the Dawang Council is regulated under the incorporated rulebook of MG Corp.

MG Corp

At a broader governance level, MG Corp acts in trust on behalf of all MG native title holders to ensure compliance with its obligations under the Ord Final Agreement including those relating to community living areas.

MG Corp was incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* in 2006 and its constitution was subsequently amended in 2008.

Although membership to MG Corp is limited to native title holders, MG Corp is not a native title prescribed body corporate. However, MG Corp has the authority to assist MG peoples in relation to planning, management and use of traditional lands.

MG Corp (or a subsidiary entity of MG Corp such as MG Dawang Land Pty Ltd) may hold titles to land transferred under the OFA, though this is not the situation with regard to land tenure at Munthamar at present.

Ord Enhancement Scheme

The Ord Enhancement Scheme (OES) is an outcome of the OFA and is a partnership between MG Corp and the State Government through the Kimberley Development Commission. The purpose of the OES is to address the negative social and economic impacts that Stage 1 of the irrigation scheme has had on Miriung and Gajerrong peoples (see KLC 2004).

The OES Management Committee is jointly appointed by the State and MG Corp.

LP No. 1 is prepared for Munthamar at the request of the OES and by way of a Memorandum of Understanding between the OES and Western Australian Planning Commission.

2.3 Land Tenure

Munthamar is located on a 57.7ha conditional freehold land parcel (lot 567). The land was transferred to the community in 2011 as an outcome of the Ord Final Agreement.

<i>Certificate of Title details</i>	2758/283
<i>Lot details</i>	Lot 567 on Deposited Plan 69840
<i>Status Order / Interest</i>	Conditional freehold
<i>Primary Interest Holder</i>	MG Dawang Land Pty Ltd
<i>Area</i>	57.7ha

2.4 Aboriginal Heritage

Impact of Aboriginal Heritage on Development of Settlements

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. 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. This applies to the development of Aboriginal settlements as it does any other type of settlement. Investigation whether there is an Aboriginal heritage site on the land must be undertaken prior to development or works, and may require a heritage survey or clearance.

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 this LP. The LP background report and 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.

Notwithstanding the above, the following discussion of heritage matters derives from discussion with community representatives and a desk-top survey of sites registered under the AHA 1972 using the [Aboriginal Heritage Inquiry System](#).

The purpose of the following discussion is to foreshadow heritage constraints to development as they relate to the implementation of the LP. These constraints to development must be addressed prior to construction of housing and other works.

No-Go Area

The community has advised that there are registered cultural sites in the vicinity of the living area. However there are not any 'no-go' areas depicted on LP No.1.

Registered Sites

There is one registered site and four other heritage sites in the vicinity of the Munthamar (as of November 2019).

All sites are mythical in nature, meaning that they relate to the creation of country under customary law. Some sites are also associated with physical artefacts, skeletal material, and engravings.

Any future development at the community, including implementing LP No1, should therefore be undertaken in consultation with the community and MG Corp on behalf of the native title holders to ensure adequate avoidance of sites.

Built Heritage

An unoccupied and over-grown ruined corrugated iron dwelling exists at the site of a former camp, to the north of the Munthamar settlement on the Mud Springs reserve. The location of the ruin is in proximity to Mud Springs' proposed future residential area (SL-Lots 11-17).

It has not been ascertained whether this ruin should be retained. The Munthamar and Mud Springs communities should be consulted prior to development of future residential lots in this area.

2.5 Community Aspirations

The ideas for improvements to the facilities noted by the Munthamar community when developing the Layout Plan are listed below. Where possible, these have been incorporated into the recommended program of works for the LP. Others that cannot be implemented as part of the LP have been noted as a record of a more general community improvement plan.

1. Construct 3 new houses.
2. Regular testing of drinking water.
2. Assistance with regular grading and maintenance of access road.
3. Install play equipment and playground and recreation area for kids.

3 EXISTING INFRASTRUCTURE & SERVICES

3.1 Housing

At present there are four dwellings at Munthamar that provide accommodation to permanent and visiting community members. These dwellings vary from a Queenslander-style house constructed by the former Department of Housing, to self-made structures improvised by community members.

As-constructed survey data for Munthamar is not available, so it is not possible to ascertain whether each of these dwellings are provided with essential services such as drinking water, wastewater disposal and electricity.

Essential Services

3.2 Water Supply

The former Department of Water conducted an audit of water supply infrastructure at Munthamar in 2008. A summary of the findings follows:

Table 3 - Summary of water supply infrastructure at Munthamar (Department of Water 2008).

Bore	<ul style="list-style-type: none">- 1 groundwater bore approximately 500m south of nearest house- Bore compound is fenced- Bore infrastructure is in very good condition.
Water tank	<ul style="list-style-type: none">- 1 elevated poly tank approximately 50m west of nearest house- 4000L capacity- Water tank compound is fenced- Water tank is in good condition
Water distribution	<ul style="list-style-type: none">- No water pump- Condition of pipe work is good- Water pressure is good, no water pressure problems
Water treatment and testing	<ul style="list-style-type: none">- No water treatment or disinfection- No water testing- No problems with water quality
Other comments	<ul style="list-style-type: none">- Each residence has an individual tank to increase water pressure.- Bore, tank stand and storage shed installed in 2006.- Community complained of bore 'sucking mud' in 2007 which was reported to DoH, although not known if any action was taken.

Community members advised that the drinking water occasionally contains sediment, and is discoloured but tastes ok. This correlates with advice received from the Shire of Wyndham - East Kimberley that in 2007 the bore was reported to be sucking mud (Shire of Wyndham - East Kimberley, cited in Department of Water 2008).

There is no long-term data available on water quality and quantity, so it is not possible to determine whether the existing drinking water supply is adequate for the existing and design population for Munthamar.

The bore is adequately separated from incompatible land uses. The WAPC 'Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries' policy 2012 recommends a 500m buffer for groundwater drinking water sources. The bore is approximately 500m from the nearest residence, and therefore is not at risk of contamination from urban uses.

3.3 Electricity Supply

Munthamar is located in the Kununurra Electricity Licence Area, for which Horizon Power is the licenced electricity supplier. Munthamar is connected to the reticulated electricity service provided by Horizon Power. The settlement received an LV distribution system upgrade in 2006 when the Kununurra supply was extended to the area.

Horizon Power provides a master meter for each of Munthamar's three points of connection to the grid. Residents have made their own arrangements for each dwelling to be individually metered.

3.4 Wastewater

Munthamar disposes of its wastewater via septic tanks and leach drains. Community members raised no major issue with this system, and advised that Kununurra Waringarri Aboriginal Corporation (KWAC) provides assistance with maintenance of the sewer disposal systems.

Municipal Services

3.5 Flooding & Drainage

The close proximity of Munthamar to the Ord River gives rise to flooding and drainage issues that constrain urban growth. Low lying areas on the periphery of the settlement area flood after major events. In some areas there is a drop of up to 3m from elevated areas to these washouts.

Community members report no serious damage to housing or infrastructure caused by flooding or stormwater run-off. There is no formal drainage infrastructure at the settlement. Stormwater run-off is in the direction of the Ord River.

3.6 Access & Dedicated Roads

Access to Munthamar from Victoria Highway is via Crossing Falls Road and Fish Farm Road. Crossing Falls Road is a dedicated road with a bitumen surface and is maintained by the Shire of Wyndham - East Kimberley.

Fish Farm Road is an access reserve (Reserve 46265, reserve without management order) that provides legal road access to the settlements of Mud Springs, Munthamar, and Bell Springs. There is no dedicated responsibility for maintenance of the gravel road.

The Fish Farm Road access reserve ends approximately 500 metres from Munthamar. From this point onwards the access road into the settlement traverses unallocated crown land and leasehold land.

3.7 Internal Road Layout

The internal road layout of Munthamar is comprised of the access road into the settlement from Fish Farm Road (compacted gravel) and a number of informal tracks leading to dwellings and community infrastructure. The layout plan proposes to rationalise the existing tracks into a simple road layout featuring one main east-west running access road to service the future residential area and one north-south running to provide access to the bore and existing housing area. This road system is based on well-used tracks which can be used as a basis for the construction of future roads. The proposed road network also takes into consideration future service alignments and existing drainage lines.

3.8 Rubbish Disposal

Munthamar's rubbish is collected by KWAC on a fortnightly basis.

3.9 Community Services

Residents of Munthamar generally commute to Kununurra for community services such as education and health care, as well as commercial activities such as retail and banking.

There is no designated office at the community.

4 RECOMMENDATIONS

4.1 Essential & Municipal Service Delivery

There is a lack of clarity with regard to which agency or agencies are responsible for funding and delivery of essential and municipal services to MG Corp communities.

Implementing the layout plan will be difficult until such time that specific agencies are identified for, for example, the funding of drinking water analysis and protection, sealing of roads, and reticulation of power and wastewater.

In normal circumstances municipal services in townsites (such as the maintenance of access roads and collection of rubbish) would be undertaken by local government. Larger remote Aboriginal communities with a population greater than 50 permanent residents generally fall within the Remote Area Essential Service Program (RAESP) managed by the Department of Communities (Housing). The smaller MG communities fall outside of these two categories.

It is beyond the scope of the LP to allocate responsibility for provision of municipal and essential services and their ongoing funding arrangements.

It is recommended that an implementation plan be prepared by MG Corp to establish which agencies (if any) have current responsibility for the delivery of essential and municipal services. The implementation plan should address whether agencies such as local government and/or KWAC have the potential to become essential and/or municipal essential service providers to MG communities and identify what the recurrent funding source would be.

4.2 Joint Essential Service Infrastructure

The proximity of Munthamar to Mud Springs & Bell Springs provides an opportunity for the sharing of essential service infrastructure. The Context plan for Munthamar and Mud Springs identifies a site for future sewage ponds and an existing drinking water bore. All sites are suitably separated from incompatible land uses and provide the prospect for reduced costs and suitably located infrastructure for all settlements.

4.3 Drinking water analysis and protection

The unknown quality and quantity of the existing drinking water supply at Munthamar may limit the potential growth of the settlement in the future. It is therefore recommended that appropriate analysis of the settlement's drinking water supply occurs, in order to determine compliance with the Australian Drinking Water Guidelines and whether the sustainable yield meets current and projected usage levels. This should occur prior to any significant investment at Munthamar in the future.

An assessment of the drinking water supply could be undertaken as part of the preparation of a Drinking Water Source Protection Plan (DWSPP) for Munthamar. In order to ensure that existing and future drinking water supplies are appropriately protected, a DWSPP should be prepared by the appropriate agency. Such a plan would incorporate monitoring and maintenance requirements, estimates of groundwater flow directions, estimation of aquifer resources, likely zones of influence of production bores and an assessment of the potential for contaminants to impact water supplies. DWSPPs also define areas of land within which land uses are restricted in order to protect drinking water that is harvested within that area, and are based on hydrological analysis of the particular circumstances of the water source and the settlement/s it serves.

It is acknowledged that analysis of the existing water supply or the preparation of a DWSPP is unlikely in the immediate future, given that no agency has responsibility for the provision of essential services to Munthamar. As an interim measure it is recommended that a functioning water treatment/filtration system be provided at Munthamar to address the issue of sediment in the drinking water, and that the bore be connected to the reticulated power to ensure a reliable and year-round drinking water supply.

4.4 Road layout

The road layout depicted in the LP generally reflects the simple settlement layout (SL) road system that currently exists at the settlement. Fish Farm Road is a road reserve and the carriageway is compacted gravel. Other roads have been shown as SL roads as they are generally based on informal, unconstructed tracks that require clearing of vegetation and construction of a trafficable carriageway.

All roads should be sealed and bituminised in the future when funds to do so become available to reduce issues of dust generation.

SL roads are generally 20m in width. A simple system of table drains should be incorporated into the road verges as the road network is formalised to assist with stormwater conveyance. The road network should also be used as the alignment for essential service infrastructure such as power lines and water pipes.

4.5 Future housing

Based on a residential density of five people per house, Munthamar would require 6-7 houses in total to accommodate an aspirational population of 32 permanent residents. The LP plans for 7 residential SL-lots in total.

There are a limited number of suitable locations for future housing at Munthamar due to the existence of numerous physical constraints at the settlement. The western portion of the settlement falls off to the river, making it unsuitable for housing. The drinking water buffer limits development to the south.

It is recommended that the provision of housing at Munthamar be prioritised in the following manner:

- Short term – SL-lot 14 is relatively cleared and proximate to reticulated power and water;
- Medium term - SL-lots 10, 11, 12, and 14 will require clearing, filling, draining, and connection to essential services.

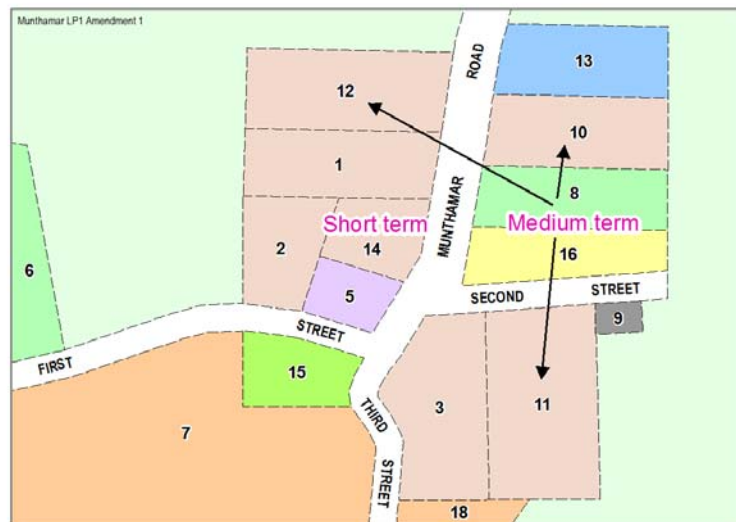


Figure 3 - Future housing development in short, medium and long term

4.6 Lot numbering

The LP assigns a settlement layout lot (SL-lot) number to every designated land area at Munthamar. A simple road naming system has also been employed. The purpose of this is to provide a unique identifier to each designated land area for administrative purposes and to assist with the delivery of essential/emergency services.

The SL-lot numbers have been adopted as a guide only, and do not exist in any legal sense. SL-lot numbers can change subject to approval from MAC and endorsement by the Western Australian Planning Commission.

5 PLANNING FRAMEWORK

5.1 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 LP No. 1:

- SPP 3 – Urban Growth and Management;
- SPP3.2 Planning for Aboriginal Communities; and
- SPP2.7 Public Drinking Water Source

5.2 Land Use Buffers for Aboriginal Communities

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

5.3 Shire of Wyndham-East Kimberley

Local Planning Scheme No. 9

The Shire of Wyndham-East Kimberley Local Planning Scheme No. 9 (LPS 9) was gazetted on 19 February 2019.

Munthamar is zoned settlement under LPS 9 which identifies 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 is a requirement of the settlement zoning (see current Scheme zoning in Figure 4 on the following page).

LPS 9 states development in the Settlement Zone is to accord with an endorsed Layout Plan and provide for:

- (a) a mix of land uses typically found in Aboriginal Settlements, including light industrial, tourism, residential, commercial, community, recreation and public utility; protecting sensitive areas such as No Go areas and drinking water source protection areas from inappropriate development.
- (b) traditional law and culture.

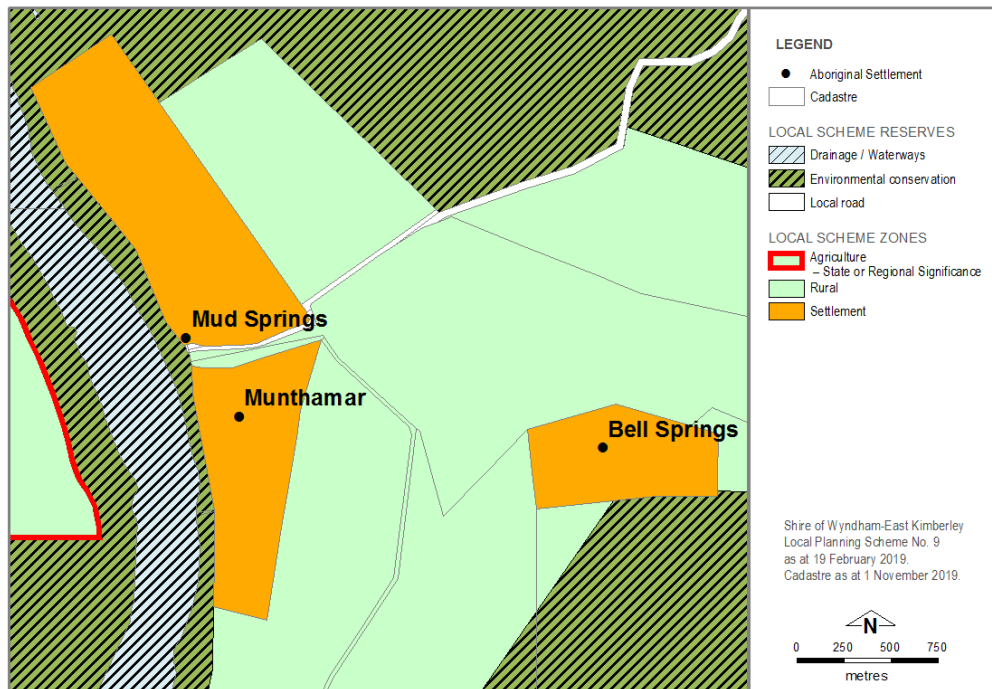


Figure 4 - Land classification under SWEK LPS 9 - Mud Springs, Mud Springs and Munthamar

Local Planning Strategy

The Shire of Wyndham-East Kimberley Local Planning Strategy (endorsed by the WAPC 21 August 2019) provides a vision for the growth and development of the Shire over a 10-15 year time frame. The strategy notes that Layout Plans should be prepared for all remote settlements, and should incorporate planning for infrastructure within and to these settlements and that existing Layout Plans within the Shire should be reviewed for currency.

6 ENDORSEMENTS

Munthamar Community Layout Plan No.1

PO Box 43
Kununurra WA 6743

The Munthanmar Aboriginal Corporation (representing the community) hereby adopts the **Munthamar Community Layout Plan No. 1 (2010)** 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 held on:

The 16th Day of November 2010

Adopted by the Munthanmar Aboriginal Corporation:

Dolly Thompson

Director
[Please print and sign name]

Director

Director

Director

Director

Director

MG Corporation Endorsement

Munthamar Community Layout Plan No.1

PO Box 2110
Kununurra WA 6743



MG Corporation (representing the traditional owners of Miriuwung Gajerrong #1 & #4 native title determinations) hereby adopts the **Munthamar Community Layout Plan No. 1 (2010)** as a guide for future development within the native title determination area.

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

The17.....Day ofJanuary.....²⁰¹¹2010

Adopted by the MG Corporation Board:

M. Cullen

Ted Carlton

M. Cullen

TED CARLTON

Director
[Please print and sign name]

Director
[Please print and sign name]

Iain Summers

Director IAIN SUMMERS

Director

Helen Gerrard

Director HELEN GERRARD

Director

Edna O'Malley
EDNA O'MALLEY

Director

Director




Munthamar Community Layout Plan No.1

PO Box 614
Kununurra WA 6743

The Shire of Wyndham-East Kimberley hereby adopts the **Munthamar Community Layout Plan No. 1 (2010)** as a basis for future growth and development within Munthamar community.

The 21ST Day of JUNE 2010

Endorsed by the Shire of Wyndham-East Kimberley:



OR FRASO MILLS

Shire President
(Please print and sign name)



GARY GAFFNEY

CEO
(Please print and sign name)

Council
Seal



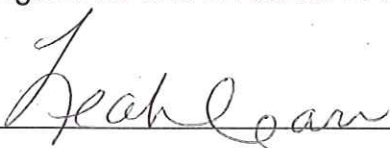
Munthamar Community Layout Plan No.1

469 Wellington Street
Perth WA 6000

The Western Australian Planning Commission hereby endorses the **Munthamar Community Layout Plan No. 1 (2010)** as a guide for development to ensure proper and orderly planning within the community area

The 29th Day of September 2011

Signed for and on behalf of the Western Australian Planning Commission



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



Witness

29.9.2011 Date

CONSULTATION & REFERENCES

CONSULTATION SUMMARY

Preparation of this Layout Plan is the result of consultation with the community representatives and a range of agencies, authorities, non-government organisations during 2009-2010.

Information was obtained from the following sources.

Organisation	Date
Munthamar site visits	Oct 2009 Mar 2010
MG Corp/OES	Oct 2009
Australian Bureau of Statistics	June 2009
State Land Services, Department of Regional Development & Lands	July 2010
Department of Indigenous Affairs	June 2010
Department of Housing	July 2010
Kununurra Warringarri Aboriginal Corporation	July 2010
Shire of Wyndham-East Kimberley	Oct 2009 Aug 2010
Landgate	Oct 2009 July 2010
Horizon Power	July 2010
Department of Water	June 2010

The PACP team of former the Department of Planning would like to thank Mr Lawford Benning and Ms Anna Moulton of the Ord Enhancement Scheme for their assistance in co-ordinating and mediating site visits to communities in the Ord Valley.

REFERENCES

Barber, K. & H. Rumley 2003 'Gunanurang: (Kununurra) Big River. Aboriginal Cultural Values of the Ord River and Wetlands'. Study and report prepared for the Water and Rivers Commission, Perth, WA. Available at www.water.wa.gov.au.

Department of Indigenous Affairs (DIA) 2004 *Environmental Health Needs Survey of Indigenous Communities in Western Australia*. Government of Western Australia. Available at: www.dia.wa.gov.au

Department of Water (DoW) 2009 *Ord catchment subregion overview and future directions: Kimberley regional water plan working discussion paper*. Department of Water, Perth. Available at: www.dow.wa.gov.au

Department of Water (DoW) 2008 'Small indigenous community water supply infrastructure report', unpublished report prepared by Dean Matthews and Kellie Loge from the Department of Water, Kimberley Region.

Hill, R. Miriung-Gajerrong People, D. Hill, D. Moncrieff, S. Goodson, L. Bullen 2009 *Yoorrooyang Dawang Joint Planning Guidelines for the Preparation of Management Plans for Conservation Reserves under the Ord Final Agreement*. Department of Environment and Conservation, Perth, WA.

Jebb, M. 2002 *Blood, Sweat and Welfare: A History of white bosses and Aboriginal pastoral workers*. UWA Press: Crawley, WA.

Kimberley Land Council (KLC) 2004 'Ord Stage 1: Fix the Past, Move to the Future. Aboriginal Social and Economic Impact Assessment of the Ord River Irrigation Project'. Unpublished report by the KLC, Broome.

Lund, M. 2005 'An ecological risk assessment of irrigation in the Ord River catchment, a highly disturbed and poorly understood area in the wet-dry tropics of Australia'. In *Proceedings of the 4th Australian Stream Management Conference 2004*. (Ed. I Rutherford). Launceston, Tasmania. Available at: <http://www.chs.ecu.edu.au/wetlands/mlund/publications/index.htm>

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.

Morphy, F. 2010 *Population, People and Place: The Fitzroy Valley Population Project*. CAEPR working paper no. 70/2010. Centre for Aboriginal Economic Policy Research, Australian National University, Canberra.

Redmond, T. & F. Skyring 2009 'Exchange and appropriation: the *Wurnan* economy and Aboriginal land and labour at Karunjie Station, North-Western Australia', in Ian Keen (ed) [in press] *Indigenous Participation in Australian Economies: Anthropological and Historical Perspectives*. ANU Press: Canberra.

Skyring, F. 2004 'History, development and Ord 1 today', in Kimberley Land Council (KLC) 'Ord Stage 1: Fix the Past, Move to the Future. Aboriginal Social and Economic Impact Assessment of the Ord River Irrigation Project'. Unpublished report by the KLC, Broome.

Taylor, J. 2003 *Aboriginal Population Profiles for Development Planning in the Northern East Kimberley*. Research monograph no. 23. Centre for Aboriginal Economic Policy Research, Australian National University, Canberra.

AMENDMENTS

Plan Date : 16 November 2010 WAPC Endorsed : 29 September 2011
Proponent : Department of Planning Requires : WAPC only – minor amendment
Endorsement

Reason for the Amendment

The Department of Planning, on behalf of the Western Australian Planning Commission (WAPC), is the custodian for Layout Plans prepared under State Planning Policy 3.2, including the Munthamar Layout Plan 1.

Since the publication of that Policy in August 2000 all Layout Plan map-sets have been prepared using a variety of computer-aided-design (CAD) formats. All Layout Plan map-sets have now been converted to a common user geographic information systems (GIS) format, including the Munthamar Layout Plan 1.

This conversion process has required a comprehensive re-development of the map-set and includes a number of data and content upgrades. This may include the establishment of new Settlement Layout lots (SL-lots), the inclusion of recommended settlement zones, modification to ensure land-use areas accord with Aboriginal Settlements Guideline 1, inclusion of drinking water source protection areas, incorporation of updated cadastre, and many other general improvements.

Approved

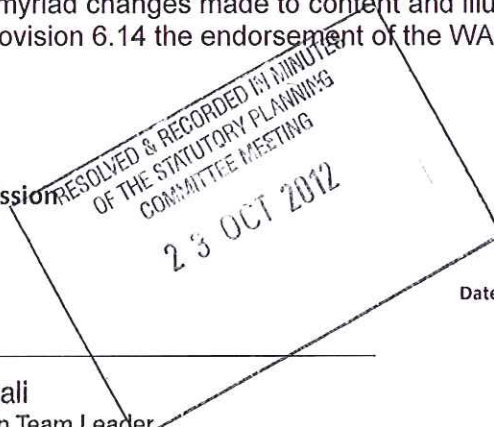
This is a minor amendment as the myriad changes made to content and illustration are of a technical nature. As such, under provision 6.14 the endorsement of the WAPC only is required.

Western Australian Planning Commission

please sign and print name

Rosa Rigali

Planning Administration Team Leader
Perth, Peel Planning - Department of Planning



Date 25/10/2012

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 Environment & Conservation, Aboriginal Cultural Materials Committee, Environmental Protection Authority, Department of Consumer & Employment Protection and Department of Water.

Munthamar Layout Plan No. 1

Amendment No. 2

Proponent	: Department of Planning, Lands and Heritage
Date	: 17th January 2020

Reason for the Amendment

The enactment of the Shire of Wyndham-East Kimberley (SWEK) Local Planning Scheme 9 (LPS 9), gazetted on 19 February 2019, has resulted in the need to delete the 'Recommended Settlement Zone' and add the 'Settlement' zone to match the LPS 9.

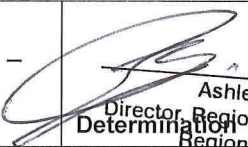
DPLH has also undertaken an update of the Layout Plan background report to ensure that it remains up-to-date, accurate and fit-for-purpose. The update includes:

- Revising the population and housing data;
- Editing and reformatting the background report;
- Removing out of date text and references

Land Identification		Amendment description
1.	All	Delete the 'Recommended Settlement Zone'. Add 'Settlement' zone to match the SWEK LPS 9.
2.	All	Update the Background Report.

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>	 17/01/2020 Ashley Randell Director, Regional Planning Policy Regional Planning PN: 15151 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, Aboriginal Cultural Materials Committee, Environmental Protection Authority and Department of Water and Environmental Regulation.