

Woolgerberleng

Layout Plan 1

Background Report

September 2011

Date endorsed by WAPC



Amendments

Amendment 1 - April 2013

Amendment 2 - January 2020



Department of **Planning,**
Lands and Heritage



WOOLERGERBERLENG LAYOUT PLAN 1

Woolergerberleng Layout Plan No. 1 (LP1) was prepared by the former Department of Planning during 2009-2010 in partnership with Woolergerberleng Aboriginal Corporation (WAC), 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 Woolergerberleng Community endorsed the Woolergerberleng 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 April 2013 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 The Amendment 2 background report update sought to keep all relevant information, while removing and replacing out-of-date references and data.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.

<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 Contact Details

Representative Organisation	:	Woolergerberleng 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)
DEC	:	Department of Environment and Conservation
DIA	:	Department of Indigenous Affairs
DPLH	:	Department of Planning, Lands and 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
LP	:	Layout Plan
MG Corp	:	Yawoorong Miriung Gajerrong Yirgeb 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 Wyndam East Kimberley
UCL	:	Unallocated Crown Land
WAC	:	Woolergerberleng Aboriginal Corporation
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

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

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

Table 1 – Population

Existing population	:	15
Existing Service Capacity	:	25
Aspirational Population	:	100

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

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 housing and most infrastructure on freehold lot held by MG Dawang Trust.
Flood / storm surge	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, approx. 20 minutes away by road.
Health	Health facilities at Kununurra, approx. 20 minutes away by road.
Governance	Woolergerberleng Aboriginal Corporation. No designated office at community.
Employment and enterprise opportunities	Opportunities to sub-lease landholding. Other employment opportunities in Kununurra.
Transport	No legal access between settlement and Victoria Highway.
Food	Retail outlets at Kununurra, approx. 20 minutes away by road.
Electricity	Diesel generator with some assistance from KWAC.

LP No.1 plans for future expansion of the community and formalises existing infrastructure and land-uses and provides a future SL-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. Replace impermanent dwellings on SL-lots 1, 2, 4, 6 & 8.
4. Construct new housing on SL-lots 14 and 19, as required.

Within the next 5 years:

1. Improve settlement's on-site effluent disposal systems to Shire and Department of Health specifications.
2. Prepare Drinking Water Source Protection Plan.
3. Construct housing on SL-lots 16 - 18, as required.
4. Upgrade and formalise First Street.
5. Secure appropriate tenure for legal access to the community and water bore

Within the next 10 years:

1. Clear, fill & drain SL-lots 21 - 28.
2. Construct new road and extension of essential services to SL-lots 21 - 28.
3. Construct housing on SL-lots 21 -28, as required.
4. Review and upgrade settlement's power supply and location.
5. Provide a reticulated sewerage system.

Implementing the LP

The implementation of this LP will rely on the energy and endeavour of the community members. The future growth of Woolergerberleng 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 Woolerrgerberleng 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 Woolergerberleng proximate to Kununurra

Woolergerberleng, also known as Hollow Springs, is in the Shire of Wyndham-East Kimberley. It is located in the Ord River catchment, 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 50,000sq 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, Wardenybung 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 Conversation, 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 Woolergerberleng.

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). A summary timeline of major events is presented below.

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 Miriuwung 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

The Woolergerberleng community was established in the 1980s. 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 Miriuwung Gajerrong settlements was formalised through the native title process under the Ord Final Agreement in 2006. Tenure for the Woolergerberleng settlement however was formalised prior to and outside of the native title process.

The Woolergerberleng settlement contributes to the regional economy in the present day through the development of an emerging aquaculture project.

1.4 Native Title

Native title issues affecting Woolergerberleng

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

The application for determination of native title by Miriuwung Gajerrong peoples comprised two claim areas, Miriuwung Gajerrong #1 (WAD6001/95) (MG #1) and Miriuwung 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.

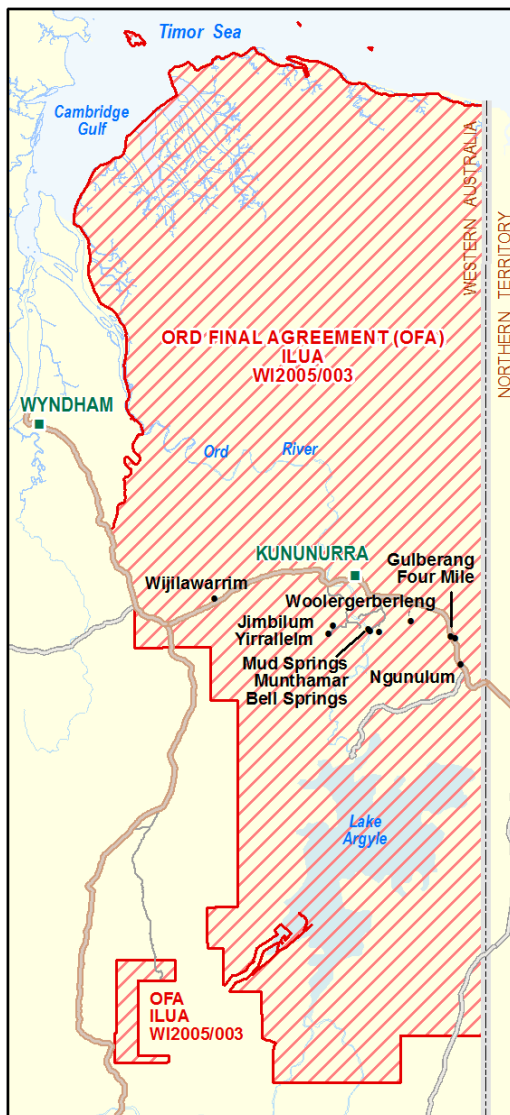
Ord Final Agreement

Woolergerberleng 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 Miriuwung 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 Miriung 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 Woolergerberleng 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 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 (eg. Taylor 2003; Morphy 2010). The residents of Woolergerberleng 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 Woolergerberleng 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 Woolergerberleng are from the Environmental Health Needs Survey (EHNS), undertaken by the Department of Indigenous Affairs in 1997, 2004 and 2008. These are:

Population of Woolergerberleng	1997 EHNS	2004 EHNS	2008 EHNS
Total persons	27	17	19

In addition to the above, a key source of population data is from the community itself. Residents advised that the usual permanent population of Woolergerberleng is approximately 15 people, comprised of 10 adults and 5 children.

Based on the available data, the population of Woolergerberleng is estimated to be 15-20 people.

Aspirational population

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

Residents have advised that their extended family includes five families who currently live in Kununurra and elsewhere, but who would relocate to Woolergerberleng if sufficient housing were available. It was estimated that approximately 20 houses in total would be required to accommodate existing residents and members of these five families. Based on an average occupancy of 5 people per dwelling, the aspirational population for Woolergerberleng might be as high as 100 people.

Existing Service Capacity

Urban growth at Woolergerberleng is constrained by the existing level of essential services available at the settlement.

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

The total existing services capacity population for Woolergerberleng is 25 people.

Design population

Design population means 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.

It is considered that the population of Woolergerberleng is likely to increase through natural growth, and migration to the settlement will remain- regardless of servicing constraints. It is therefore necessary to plan for a degree of urban growth over the 15 year timeframe of the LP. Should the level of essential services provided to residents at Woolergerberleng be improved (especially improved drinking water and electricity services), it may be possible for the aspirational population to be accommodated at the settlement with an appropriate level of servicing.

The design population for Woolergerberleng is 25 - 100 people.

2.2 Governance & Representation

Over time Miriuwung 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 Woolergerberleng are summarised below.

Incorporated Community

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

The aims of WAC 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 keep and renew their traditional culture;
- (e) help build trust and friendship between its members and other people;
- (f) participate with other Aboriginal Corporations in projects for their mutual benefit; and
- (g) receive and spend grants of money from the Government of the Commonwealth or of the State or from other sources.

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

Dawang Council

The 16 Dawang that comprise the traditional lands of Miriuwung 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 holdings at Woolergerberleng.

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 Miriuwung 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 Woolergerberleng 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

Clause 42 of the *Ord Final Agreement Variation #2 2005* requires the State to transfer approximately 50,000ha of pre-identified land as freehold title to MG Corporation. This portion of land (referred to as 'Yardungarrl' in the Agreement) was transferred under the *Transfer of Land Act 1893* to MG Dawang Pty. Ltd. and registered in 2007. Woolergerberleng is located on a 26,460ha freehold lot that comprises part of the multi-lot Yardungarrl title.

A summary of the details of this land parcel follows:

<i>Tenure</i>	Fee simple
<i>Lot</i>	Lot 994 on Deposited Plan 37024
<i>Certificate of Title</i>	2660/925
<i>Registered Proprietor</i>	MG Dawang Land Pty. Ltd.
<i>Area</i>	26,460.4ha

Although all community housing and the majority of associated infrastructure are located on the Yardungarrl freehold estate, Woolergerberleng's drinking water bore is located outside the boundary of Lot 994 on the adjacent Ivanhoe Pastoral Station held by Crosswalk Pty. Ltd. Access to Woolergerberleng from Victoria Highway also traverses the pastoral station, with no access easement in place to ensure legal access.

2.4 Aboriginal Heritage

Notwithstanding the text box on the following page, the summary below 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 cultural areas in the vicinity of the living area.

A 'no-go' area is depicted in the south-west of the Living Area plan which, along with existing creek lines and soaks, constrains development in this area.

Registered Sites

There are two registered sites in the vicinity of the Woolergerberleng (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.

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.

2.5 Community Aspirations

The ideas for improvements to the facilities noted by the Woolergerberleng 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. Create legal access between Highway and settlement.
2. Connect to town power supply & provide metering to individual houses.
3. Additional housing.
4. Provide recreation area for kids.
5. Future tourism enterprise.
6. Construct office/ranger station near entrance to settlement.
7. Provision of signs informing public where boundaries to Yardungarrl freehold lot are located.

3 EXISTING INFRASTRUCTURE & SERVICES

3.1 Housing

At the time of consultation, there were there are eight dwellings at Woolergerberleng. Four of these were tin shacks that previously had been used as dwellings but were not suitable for permanent habitation. Another dwelling was a caravan located on a concrete pad with overhead shelter.

Based on 3 permanently habitable dwellings at the settlement and a usual permanent population of 20 people, the average number of residents per house is 6.5.

Essential Services

3.2 Water Supply

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

Table 3 - Summary of water supply infrastructure at Woolergerberleng. (DoW 2008)

Bore	<ul style="list-style-type: none">- Bore approximately 800m north east of nearest house- Bore compound is not fenced- Solar powered- Bore infrastructure in good condition- Some vegetation blocks sunlight during the day and needs to be cleared.
Water tank	<ul style="list-style-type: none">- Water tank compound approximately 50m south west of nearest house. Compound is unfenced.- 1 x 5000L poly tank on 10m elevated stand. Tank in good condition.- 1 x 5000L poly tank on ground. Tank in good condition.- 1 x Rocket tank on elevated stand. Tank in unusable condition.
Water distribution	<ul style="list-style-type: none">- Water pressure pump installed at tank.- Water pressure is a trickle and inadequate even with water pump.
Water treatment and testing	<ul style="list-style-type: none">- No water treatment or disinfection- Water tested by SWEK in May 2008- No problems with water quality
Other comments	<ul style="list-style-type: none">- Water pressure is low and a new pump is required to increase pressure levels

Bacterial testing of Woolergerberleng's water supply was undertaken by the Shire of Wyndham - East Kimberley on 14 May 2008 upon request by Kununurra Waringarri Aboriginal Corporation. Thermophillic Amoebae were detected in the sample taken from the water tank. The Shire also advised that the rocket tank is a hazard to the community due to risk of collapse in high wind conditions. (Shire of Wyndham - East Kimberley, cited in Department of Water 2008)

The bore is solar powered and its operation is therefore reliant on suitable climatic conditions. The community advised that, in overcast conditions when the pump is unable to draw water, the operational water tank only has capacity to supply the community with water for one or two days. In order to ensure a reliable and year-round drinking water supply, it is recommended that the bore be connected to a reliable power supply.

Due to the lack of long-term data available on water quality and quantity, it is not possible to determine whether the existing drinking water supply is adequate for the existing and design population for Woolergerberleng.

The bore is suitably 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 and the location of the bore complies with this objective. However the bore is located outside Lot 994 (Yardungarrl freehold) on the adjoining pastoral station, meaning that residents do not have secure access to the settlement's drinking water supply.

3.3 Electricity Supply

Woolergerberleng is located outside the Kununurra Electricity Licence Area, for which Horizon Power is the licenced electricity supplier.

Woolergerberleng obtains its power supply from a 21kva diesel generator located approximately 30m south of the nearest residence. The generator is housed in a sea container. Distribution is via overhead mains with 4 houses and a water tank being connected. In general, the system is considered to be in a good condition (Horizon Power, 2008).

The community has advised that there are no significant issues associated with the power supply. Future aspirations include the ability for each household to be responsible for paying according to their own consumption and connection to Horizon Power's reticulated electricity supply.

The power generator is not suitably separated from sensitive land uses. The WAPC 'Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries' policy 2012 recommends that power stations be separated from sensitive land uses such as residential by at least 200m. In the case of Woolergerberleng, all houses in the community are located within this buffer area, with the closest house being 30m away. This has the potential to significantly reduce residential amenity and negatively impact on public health through exposure to excessive noise levels and exhaust plumes.

The existing electricity supply infrastructure appears to be sufficient for the settlement's current population. However, the capacity of the existing generator is unlikely to be sufficient for the settlement's design population, and substantial upgrades will be required in the future.

3.4 Wastewater

The houses at Woolergerberleng have plumbing connections to septic tanks and dispose of wastewater via leach drains. There is also an ablution block near the centre of the settlement that is used by visitors. Residents requested that the ablution block be connected to power for use at night time.

KWAC assists with the maintenance of sewer disposal systems and the community did not report any issues with their use.

Municipal Services

3.5 Flooding & Drainage

Woolergerberleng is located in spring country, which gives rise to a number of drainage issues and constraints to urban growth. A number of soaks in and around the main settlement are not suitable

for the construction of housing and infrastructure. Surface water run-off is in a southerly direction towards a non-perennial creek approximately 150m from the housing area.

The settlement is not subject to inundation from nearby water courses, and residents did not report any serious damage to housing or infrastructure caused by flooding or stormwater run-off.

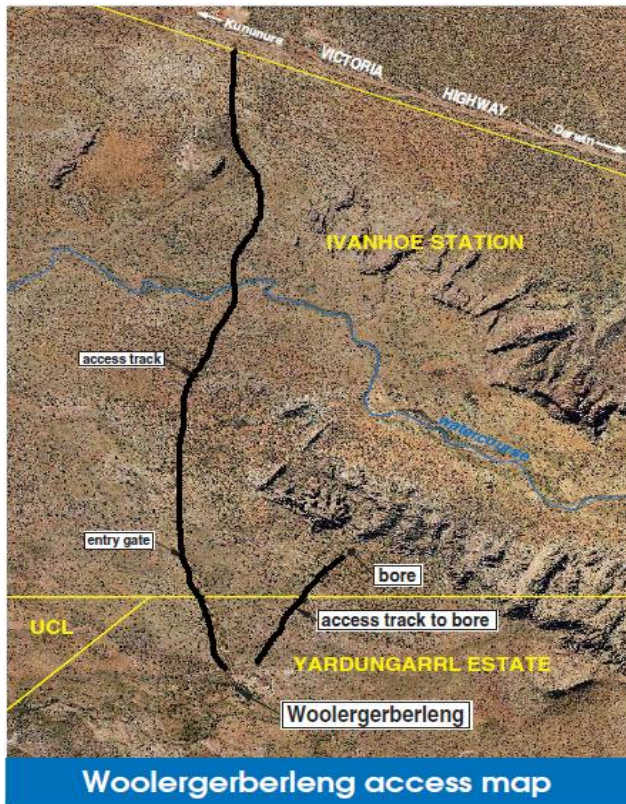


Figure 3 - Access to Highway via Ivanhoe Station

3.6 Access & Dedicated Roads

Road access to Woolergerberleng is via an unsealed, compacted gravel access road that extends from the main settlement area to Victoria Highway. This access track traverses Lot 711 (Ivanhoe Pastoral Station). There is no access easement on the Title of Lot 711 for this track.

A fenceline intersects with the access track approximately 3.6km south of the Highway. At this location, there is also an entrance gate and a road sign indicating the boundary of the Yardungarrl estate. The entrance gate and sign are located on Lot 711 (Ivanhoe Station), approximately 300m north of the boundary between Lot 711 and Lot 994 (Yardungarrl Estate)

A creek intersects with this access road at the midway point between the Highway and the settlement. After heavy rains the creek can be unpassable until the water level subsides, resulting in short term (2-3 days) disruption to vehicular access/egress and damage to the road caused by wash.

3.7 Internal Road Layout

The internal road layout of Woolergerberleng is comprised of the access road into the settlement from Victoria Highway and a number of informal tracks leading to dwellings and community infrastructure. An access track extends approximately 900m to the bore. Tracks also extend to the creek located south of the housing area.

3.8 Rubbish Disposal

Woolergerberleng's rubbish is collected by KWAC on a fortnightly basis. Residents stated that they do not wish to have a rubbish tip at the settlement.

3.9 Community Services

Residents of Woolergerberleng 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 Drinking water analysis and protection

The unknown quality and quantity of the existing drinking water supply at Woolergerberleng 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 Woolergerberleng 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 Woolergerberleng. 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 Woolergerberleng. As an interim measure it is recommended that a functioning water treatment/filtration system be provided at Woolergerberleng 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.

4.3 Electricity Supply Upgrade

The future growth of Woolergerberleng is largely contingent on the upgrading of the settlement's power supply, as the capacity of the existing diesel generator is not sufficient for the design population.

Options for upgrading the settlement's power supply include:

- connecting to the reticulated town grid;
- replacing the existing diesel; and
- relocating and replacing the existing diesel generator.

A site for a new diesel power station has been depicted on the LP (SL-lot 29). The new site is suitably separated from sensitive land uses, and is mid-way between the residential area and the drinking water bore.

Should Woolergerberleng be connected to the reticulated town grid or a new power supply be provided in an alternate location, the existing diesel generator should be decommissioned and the site remediated.

4.4 Future housing

Based on a residential density of five people per house, Woolergerberleng would require 20 houses in total to accommodate an aspirational population of 100 residents, and 8 houses in total for the population of 40 residents. The LP plans for 21 residential SL-lots in total.

There are a limited number of suitable locations for future housing at Woolergerberleng due to the existence of numerous physical constraints at the settlement. The southern portion of the settlement is constrained by a creek line, soaks and no-go area, the north is constrained by a future power station buffer and hill incline, the east is constrained by soaks and higher cost of extension of essential services. Pockets of soaks or drainage lines are interspersed throughout the settlement.

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

- Short term - impermanent dwellings on SL-lots 1, 2, 4, 6, 8 be replaced with formal housing. The community should be consulted prior to any development of SL-lot 1. Construct new dwellings on SL-lots 14 & 19;
- Medium term - Lots 16-18 are partially cleared of vegetation and appropriate section of First Street requires upgrading and formalising;
- Long term – SL-lots 21-28 require significant clearing of vegetation, filling and draining lots, construction of a new road and extension of essential service infrastructure. These lots are also proximate to a soak and the suitability of this location for residential purposes should be confirmed prior to construction and may require the construction of drainage and flood mitigation measures.

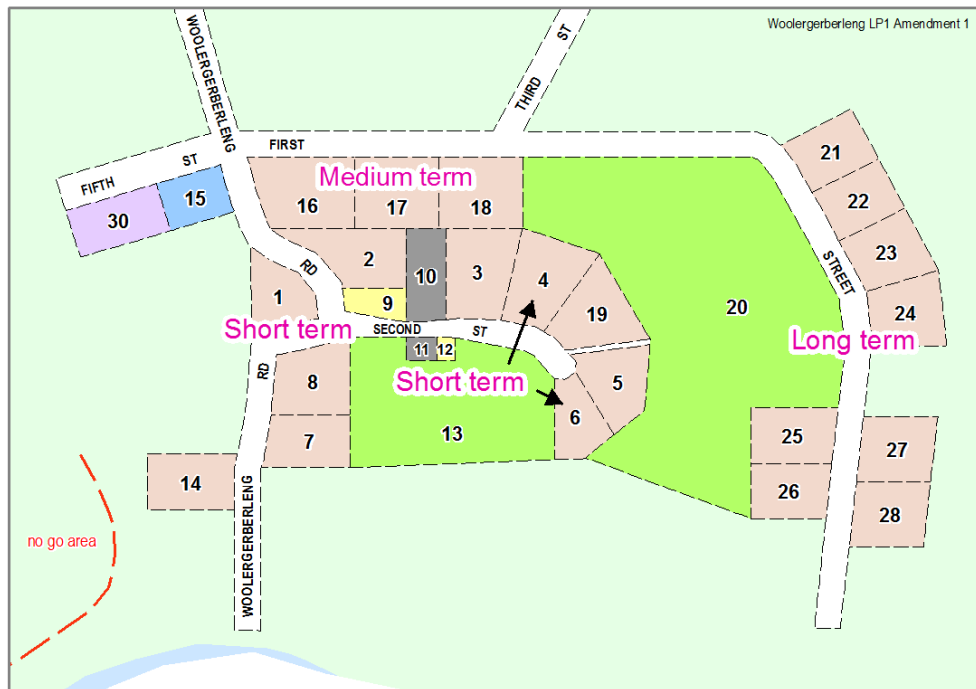


Figure 4 - Provision of housing in short, medium and long-term

4.5 Road layout

The road layout depicted in the LP generally reflects the informal settlement layout (SL) road system that currently exists at the settlement. Woolgergerberleng Road is fairly well defined but unsealed. First Street around the community exists as a series of ill-defined tracks at present, and requires formation prior to developing SL-lots 21-28.

All SL roads should be paved drained and sealed in the future when funds to do so become available to reduce issues of dust generation and assist with drainage.

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.

4.6 Lot numbering

The LP assigns a settlement layout lot (SL-lot) number to every designated land area at Woolgergerberleng. 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 and road names can change subject to approval from WAC and endorsement by the Western Australian Planning Commission.

4.7 Wastewater Disposal

Improvement to the method of wastewater disposal is required to minimise the risk of contamination to the groundwater system. The long-term solution is to provide a reticulated sewerage service, although it is acknowledged that there is a lack of funds to do so and no agency is assigned the responsibility for the construction and ongoing maintenance of such infrastructure at Woolergerberleng.

It is therefore recommended that improvements to the current method and/or new methods of on-site effluent disposal be investigated. Possible improvements to the current method include: the use of filters on the outlet of septic tanks to reduce the amount of solids in the outgoing effluent; an alternating system of two or more leach drains with a diverter box to change the flow of effluent (allowing the unused portion to dry out); and regular desludging of septic tanks as part of a systemic maintenance regime by a responsible agency. Alternatively, the site suitability of the various alternative treatment units approved by Department of Health for use in WA should be investigated.

Any effluent disposal system should comply with the specifications of the Department of Health and the Shire's Environmental Health department. It is also recommended that the settlement's drinking water supply be regularly tested in order to identify any potential contamination.

4.8 Tenure adjustment

Adjustments to the existing tenure situation at Woolergerberleng are recommended to ensure that the entire settlement is located on land with secure and appropriate tenure, and that legal access is provided to the settlement. This includes provision of an access easement between the Highway via Ivanhoe Station, and the provision of appropriate tenure for the existing drinking water source.

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.

Woolergerberleng 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.

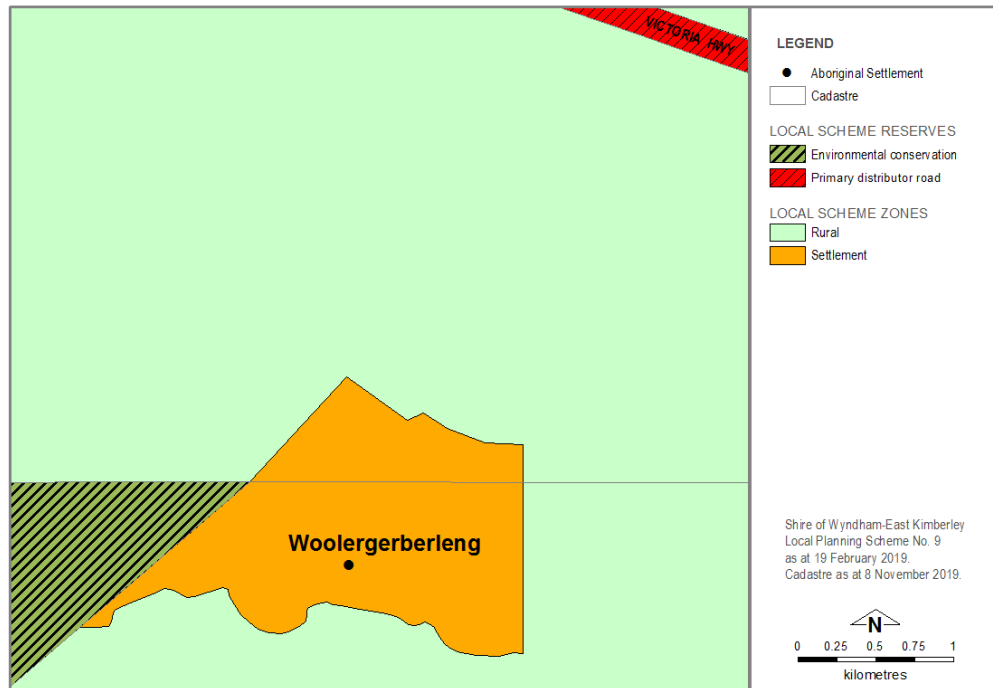


Figure 5 - Land classification under SWEK LPS 9, Woolergerberleng

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

Woolergerberleng (Hollow Springs) Community Layout Plan No.1

PO Box 167,
Kununurra WA 6743

The Woolerrgerberleng Aboriginal Corporation (representing the community) hereby adopts the **Woolergerberleng 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 of Council held on:

The 17th Day of November 2010

Adopted by the Woolerrgerberleng Aboriginal Corporation:

JOSEPHINE WARD

RUTH WARD

Director
[Please print and sign name]

SHARON BENNING

Director

Josephine Ward

Ruth Ward

Director

Sharon Benning

Director

Director

Director

MG Corporation Endorsement

Woolergerberleng (Hollow Springs) 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 **Woolergerberleng 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 of January.....²⁰¹¹
2010

Adopted by the MG Corporation Board:

<u>M. C. C.</u>	<u>Ted Carlton</u>
<u>M. C. C.</u>	<u>TED CARLTON</u>

Director
[Please print and sign name]

Director
[Please print and sign name]

<u>Paul Summers</u>	
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Director PAUL SUMMERS

Director

<u>Helen Gerrard</u>	
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Director HELEN GERRARD

Director

<u>Edna O'Malley</u>	
----------------------	--

Director EDNA O'MALLEY

Director

Shire of Wyndham-East Kimberley Endorsement

Woolergerberleng (Hollow Springs) Community Layout Plan No.1



PO Box 614
Kununurra WA 6743

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

The 21st Day of JUNE 2010

Endorsed by the Shire of Wyndham-East Kimberley:

OR FRED MILLS

Shire President
(Please print and sign name)

GARY GAFFNEY

CEO
(Please print and sign name)

Council
Seal



Woolergerberleng (Hollow Springs) Community Layout Plan No.1

469 Wellington Street
Perth WA 6000

The Western Australian Planning Commission hereby endorses the **Woolergerberleng 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

Deah Loan

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. Wieclan

Witness

29.9.2011 Date

CONSULTATION & REFERENCES

CONSULTATION

Preparation of this Community 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
Woolergerberleng 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 the former 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.

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AMENDMENTS

Woolergerberleng Layout Plan 1

Amendment 1

Plan Date : 17 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 Mud Springs 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 Mud Springs 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.

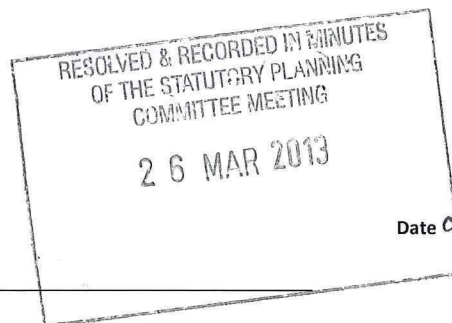
Approved

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 21/4/13

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.

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 *Instrument of Delegation – Delegation to officers of certain powers and functions of the Western Australian Planning Commission.*

 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.