

Four Mile Inc. Gulberang Layout Plan 1

Background Report

September 2011

Date endorsed by WAPC



Amendments

Amendment 1 - October 2012

Amendment 2 - November 2013

Amendment 3 - January 2020



Department of Planning,
Lands and Heritage



FOUR MILE LAYOUT PLAN 1

Four Mile Layout Plan No. 1 (LP1) was prepared by the former Department of Planning during 2009-2010 in partnership with Four Mile Aboriginal Corporation (FMAC), 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 Four Mile Community endorsed the Four Mile 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 amendment 1 in October 2012 and amendment 2 in November 2013 to incorporate administrative changes to the layout plan map-set, no changes were made to the background report. The endorsed amendments are listed in part 6 of this report.

The Amendment 3 background report update sought to keep all relevant information, while removing and replacing out-of-date references and data.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.

GULBERANG OUTLINE PLAN 1

Gulberang Outline Plan No. 1 (OP1) was prepared by the former Department of Planning during 2009-2010 in partnership with Galburring Aboriginal Corp. (GAC), MG Corp and OES. To assist in the coordination and delivery of services to Gulberang, OP1 was incorporated into the Four Mile Layout Plan 1 (LP1). On 9 October 2012 when the WAPC endorsed Amendment 1 to the Four Mile Layout Plan, this included incorporating the Gulberang Outline Plan 1.

Gulberang Outline Plan No. 1 follows Four Mile Layout Plan No. 1.

<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>
--

FOUR MILE LAYOUT PLAN 1 - CONTENTS

EXECUTIVE SUMMARY	IV
DEVELOPMENT PRIORITIES	V
1 REGIONAL CONTEXT	1
1.1 LOCATION & SETTING	1
1.2 REGIONAL CULTURE & DEMOGRAPHY	1
1.3 REGIONAL HISTORY & ECONOMY	2
1.4 NATIVE TITLE.....	3
2 COMMUNITY PROFILE.....	5
2.1 POPULATION.....	5
2.2 GOVERNANCE & REPRESENTATION	6
2.3 LAND TENURE	7
2.4 ABORIGINAL HERITAGE	7
2.5 COMMUNITY ASPIRATIONS	8
3 EXISTING INFRASTRUCTURE & SERVICES.....	9
3.1 HOUSING	9
3.2 WATER SUPPLY	9
3.3 ELECTRICITY SUPPLY	10
3.4 WASTEWATER	10
3.5 FLOODING & DRAINAGE	10
3.6 ACCESS & DEDICATED ROADS.....	11
3.7 INTERNAL ROAD LAYOUT.....	11
3.8 RUBBISH DISPOSAL	11
3.9 COMMUNITY SERVICES	11
4 RECOMMENDATIONS	12
4.1 ESSENTIAL & MUNICIPAL SERVICE DELIVERY	12
4.2 ELECTRICITY SUPPLY UPGRADE	12
4.3 DRINKING WATER ANALYSIS AND PROTECTION	12
4.4 FUTURE HOUSING.....	13
4.5 ROAD LAYOUT	13
4.6 LOT NUMBERING	14
4.7 WASTEWATER DISPOSAL	14
5 PLANNING FRAMEWORK	15
5.1 STATE PLANNING POLICIES	15
5.2 EXCLUSION BOUNDARIES	15
5.3 SHIRE OF WYNDHAM-EAST KIMBERLEY	15
6 ENDORSEMENTS	17
FOUR MILE 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	: Four Mile 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 & Heritage
EHNS	: Environmental Health Needs Survey
FMAC	: Four Mile Aboriginal Corporation
ILUA	: Indigenous Land Use Agreement (under the Native Title Act 1993)
KRSP	: Kimberley Regional Service Providers
KWAC	Kununurra Waringarri Aboriginal Corporation
LP	: Layout Plan
MG Corp	: Yawoorong Miriuwung Gajerrong Yirrgeb 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

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

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

Table 1 – Population

Design Population	:	40
Existing population	:	10
Existing Service Capacity	:	15
Aspirational Population	:	50

Table 2 - Infrastructure and essential/social service characteristics at Four Mile

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)	Settlement and all infrastructure located on secured freehold title.
Flood / storm surge	Settlement and infrastructure not subject to flooding. No formal drainage system but no damage to housing or infrastructure.
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	Four Mile Aboriginal Corporation. No designated office at community.
Employment and enterprise opportunities	Employment opportunities in Kununurra.
Transport	Road access from Victoria Highway.
Food	Retail outlets at Kununurra, approximately 20 minutes away by road.
Electricity	Community run diesel generator, with some support 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. Renovate/replace 2 existing houses, as required.
3. Fence water bore and water storage tank compounds.
4. Classify living area as 'Settlement' in accordance with LP under town planning scheme (Shire of Wyndham-East Kimberley).

Within the next 5 years:

1. Subject to completion of a services strategy (see above), complete an assessment of the existing drinking water source and investigation / protection of future drinking water source options (if required).
2. Seal and formalise internal road network.
3. Improve wastewater disposal systems or provide underground reticulation system.
4. Clear, fill, drain and service SL-lots 7-13.
5. Construct housing on SL-lots 7-13, as required.
6. Install water pump to ensure adequate water pressure to all residential lots.
7. Remediate SL-lot 15 for future residential development.

Within the next 10 years:

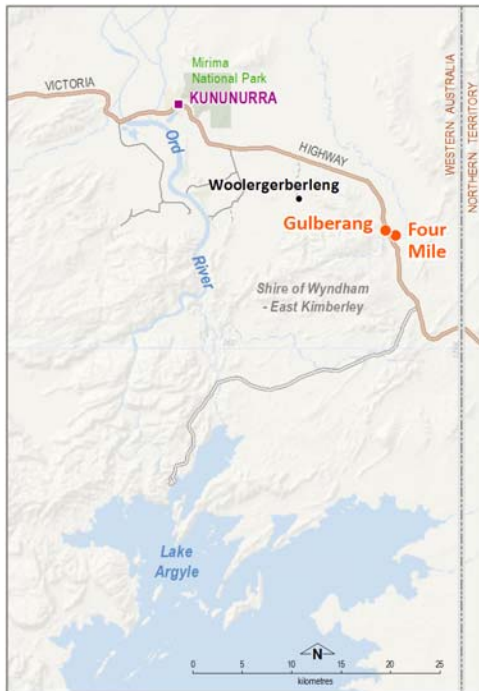
1. Clear, fill, drain and service SL-lot 15.
2. Construct housing on SL-lot 15, as required.
3. Recognise the community in SWEK local planning instruments.

Implementing the LP

The implementation of this LP will rely on the energy and endeavour of the community members. The future growth of Four Mile 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 Four Mile 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



Four Mile community is in the Shire of Wyndham-East Kimberley, on the Victoria Highway near the Northern Territory border. The settlement is within the Ord River catchment, about 28 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 50,000km² 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.

Figure 1 - Location of Four Mile proximate to Kununurra

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 Four Mile.

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 Miriung 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 Four Mile community was established in the mid 1980s. Prior to that it was a former camp site, where 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.

Today, Four Mile has a permanent resident population, which is host to a seasonal population during weekends and other periods.

As is detailed below, the creation of community living areas for most Miriung Gajerrong settlements was formalised through the native title process under the Ord Final Agreement in 2006.

1.4 Native Title

Native title issues affecting Four Mile

Four Mile settlement falls within the Miriung Gajerrong #1 native title determination area and is principally comprised of native title holders.

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

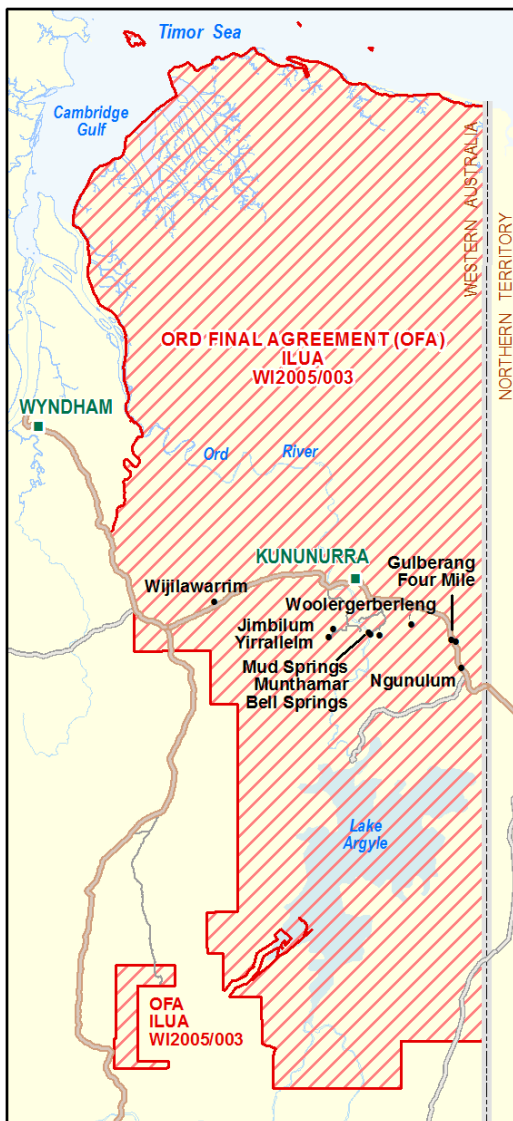
Ord Final Agreement

Four Mile 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 on the following page.

Key features of the OFA include:

- Recognition of Miriung 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 Four Mile 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. The residents of Four Mile have close affiliations with other settlements in the Kimberley and there are regular movements of people throughout the region.

The Australian Bureau of Statistics has advised that recent census data for Four Springs 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 Four Mile are from the Environmental Health Needs Survey (EHNS) undertaken by the former Department of Indigenous Affairs in 1997, 2004 and 2008. These are:

Population of Four Mile	1997 EHNS	2004 EHNS	2008 EHNS
Total persons	14	35	24

In addition to the above, a key source of population data is from the community itself. Residents advised that there are approximately 40 people who divide their time between residing at Four Mile and Kununurra. The current level of housing and essential services at the settlement are not sufficient to accommodate this entire population on a permanent, long-term basis. The community advised that at most times there is likely to be a minimum of 10 residents staying at Four Mile. The number of people staying at Four Mile increases on weekends, school holidays and other various times throughout the year.

Aspirational population

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

Residents have advised that there are up to 40 extended members of the family who divide their time between Four Mile and Kununurra, but who would permanently reside at Four Mile if sufficient housing and essential services were available. In addition, residents have advised that there are a number of children and teenagers who are likely to start their own families during the 15 year time-frame of the LP.

The aspirational population for Four Mile is therefore approximately 50 people by 2025.

Existing Service Capacity

Urban growth at Four Mile is constrained by the existing level of essential services available at the settlement. It is estimated that the existing electricity generation capacity could service up to 15 people. (see section 3)

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

The risk of contaminating the existing drinking water source is very high, existing houses, a diesel power-house and an ablution block at Four Mile are within 200m of the drinking water source. Additional housing will increase the risk of contamination to the settlement's drinking water supply. (see section 3)

The total existing services capacity population for Four Mile is 15 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.

It is considered that the population of Four Mile 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 Four Mile 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 Four Mile is 40 people.

2.2 Governance & Representation

Over time Mirriuwung 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 Four Mile are summarised below.

Incorporated Community

The community is managed through its incorporated body - Four Mile Aboriginal Corporation (FMAC). FMAC was incorporated under the *Aboriginal Councils and Associations Act 1976* in 1993.

The aims of FMAC 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 upon their own lands.

FMAC is registered with the Office of the Registrar of Indigenous Corporations (ORIC).

Documents on FMAC can be obtained from www.oric.gov.au.

Dawang Council

The 16 Dawang that comprise the traditional lands of Mirriuwung 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, which is the situation with regard to land holdings at Four Mile.

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 Miriwung 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 Four Mile 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. Four Mile is located on a 8242ha 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 995 on Deposited Plan 37024
<i>Certificate of Title</i>	2660/925
<i>Registered Proprietor</i>	MG Dawang Land Pty. Ltd.
<i>Area</i>	8241.88ha

All community housing and infrastructure is located on Lot 995.

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 is a graveyard in the north-east corner of the community. The approximate position of this has been recorded on the plan. The exact location however has not been recorded by GPS, and the community should therefore be consulted prior to development in this area.

LP No.1 does not have any 'No-Go' areas.

Registered Sites

There are 2 registered sites (IDs 12878 and 13460) in the vicinity of the Four Mile settlement, as of November 2019.

Most 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.

2.5 Community Aspirations

The ideas for improvements to the facilities were noted by the Four Mile community when the Layout Plan was developed in 2010 and these 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. Establish additional street lighting.
2. Establish a designated administrative office.
3. Establish fencing around water bore and power generator.
4. Access road to community and internal roads to be sealed.
5. Establish a routine for the regular testing of water, and chlorine treatment of water, if necessary.

3 EXISTING INFRASTRUCTURE & SERVICES

3.1 Housing

At the time of consultation, there were three houses at Four Mile. Residents advised two of these houses were in need of major repairs and maintenance, and not suitable for permanent habitation.

Essential Services

3.2 Water Supply

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

Table 3 - Summary of water supply infrastructure at Four Mile. (Department of Water)

Bore	<ul style="list-style-type: none">- 1 bore approximately 20m north west of nearest house- Bore compound is not fenced- Solar panels stolen and now powered by generator.- Bore infrastructure is in good condition except for minor leak from pipe work
Water tank	<ul style="list-style-type: none">- 1 poly tank approximately 20m north west of nearest house- Tank on 10m elevated stand- 5000L capacity- Water tank compound is not fenced, although residents want to fence compound- Water tank is in good condition
Water distribution	<ul style="list-style-type: none">- No pressure pump- Condition of pipe work is ok- Water pressure is adequate, but may become a problem when the population increases
Water treatment and testing	<ul style="list-style-type: none">- Water treatment and disinfection installed by Clayton Bell- Water tested by SWEK in May 2008- No recent problems with water quality
Other comments	<ul style="list-style-type: none">- Residents would like bore and tank compounds to be fenced to stop interference from children

Bacterial testing of Four Mile's water supply was undertaken by the Shire of Wyndham - East Kimberley on 14 May 2008 upon request by KWAC. Results complied with Australian Drinking Water Guidelines. However, due to a lack of water treatment and disinfection, ongoing compliance with the national standards can not be assured (Shire of Wyndham - East Kimberley, cited in Department of Water 2008).

Due to the lack of 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 Four Mile. The bore is not suitably separated from incompatible land uses and is therefore at risk of contamination. The WAPC 'Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries' policy 2012 recommends a 500m buffer for groundwater drinking water sources. The power station, dwellings and ablution block are all located within 200m of the bore at Four Mile, and are therefore at risk of contaminating the settlement's drinking water supply.

3.3 Electricity Supply

Four Mile is located outside the Kununurra Electricity Licence Area, for which Horizon Power is the licensed electricity supplier. Residents are responsible for provision of their own electricity, with technical assistance from KWAC.

Four Mile obtains its power supply from a 21KW diesel generator located approximately 30m east of the nearest residence. The generator is housed in a lockable shed. Distribution is via overhead wires, with 3 houses being connected. The generator also has a solar system which has ceased to work. (Horizon Power, 2008)

Residents advised that the generator intermittently ceases to operate. Although the frequency and length of such power failures is unknown, it is likely that the relatively small capacity of the generator is the cause. The existing electricity supply infrastructure is not sufficient for the settlement's current population, and upgrading is required.

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 Four Mile, all houses are located within this buffer area, with the closest house being 30m away and the drinking water bore being approximately 150m away. This has the potential to significantly reduce residential amenity and negatively impact on public health through exposure to excessive noise levels and exhaust fumes and seepage of diesel into groundwater systems.

3.4 Wastewater

The three houses at Four Mile have plumbing connections to septic tanks and dispose of wastewater via leach drains. KWAC assists with the maintenance of sewer disposal systems.

The use of leach drains is a potential risk of contamination to the drinking water source through seepage into the water table and surface water run-off into the bore wellhead.

Municipal Services

3.5 Flooding & Drainage

Four Mile is not subject to inundation from nearby watercourses, but during the wet season heavy rains often result in access and mobility issues. Residents reported no serious damage to housing or infrastructure caused by flooding or stormwater run-off.

There is no formal drainage system at Four Mile. Surface water run-off is generally in a southerly direction towards a creek located to the south of the settlement. The community advises that there is a soak between the settlement and the creek. This area is not suitable for future development.



Figure 3 - Four Mile settlement showing creek drainage to the south and rocky outcrop to west

3.6 Access & Dedicated Roads

Road access to Four Mile is via Victoria Highway. By road, the settlement is located approximately 28km from Kununurra and 15km from the Northern Territory boundary. Victoria Highway is sealed and is predominantly a single carriageway (two lane - two way) road. The Highway provides reliable year round access to the settlement and is maintained by Main Roads Western Australia.

An unsealed, compacted gravel access road extends from the Highway to the main settlement area. Residents advised that portions of this access road have a surface of loose sand and vehicles are prone to getting bogged after heavy rain.

3.7 Internal Road Layout

The internal road layout formalises an existing an existing compacted gravel track in a loop layout.

3.8 Rubbish Disposal

Four Mile's rubbish is collected by KWAC on a fortnightly basis. Residents advised of the existence of a former tip to the west of the main access road. This former tip has been mostly rehabilitated although a trench remains.

3.9 Community Services

Residents of Four Mile 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 settlement.

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 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 Electricity Supply Upgrade

The future growth of Four Mile is largely contingent on the upgrading of the settlement's power supply. The capacity of the existing diesel generator is not sufficient for the current population and its proximity to sensitive land uses may be a public health risk.

Options for upgrading the settlement's power supply include:

- connecting to the reticulated town grid;
- repairing the solar component of the existing solar/diesel system;
- relocating and replacing the existing system.

The most suitable site for a relocated power station is to the north of the existing settlement, due to constraints to the south (soak), west (rocky area) and east (future residential area).

Should Four Mile be connected to the reticulated town grid, the existing diesel generator should be decommissioned and the site remediated.

4.3 Drinking water analysis and protection

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

In the short term, the bore and water tank compound should be fenced.

In the medium term, if the settlement experiences population growth and residential development, a water pump will have to be installed to ensure adequate water pressure.

4.4 Future housing

Based on a residential density of five people per house, Four Mile would require 10 houses in total to accommodate the design population of 50. The LP plans for 11 residential SL-lots in total though SL-lot 15 would first require remediation after which it would accommodate two houses).

There are a limited number of suitable locations for future housing at Four Mile due to the existence of numerous physical constraints at the settlement. The western portion of the settlement (along existing dwellings on SL-lots 1 and 3) is a rocky outcrop, making it unsuitable for housing. A drainage line and low lying soak area further limit the construction of houses to the southern portion of the settlement.

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

- Short term - Renovate or replace two existing houses that are uninhabitable.
- Medium term - Develop SL-lots 7-13, which would require clearing, filling and draining land and connecting to essential services.
- Long term - Develop SL-lot 15, suitable size for 2-3 houses, subject to remediation of site and connection to essential services.

4.5 Road layout

The road layout depicted in the LP generally reflects the simple settlement layout (SL) road system that currently exists at the settlement. The internal loop SL road is a compacted gravel. Other SL roads are generally based on informal, unconstructed tracks that require clearing of vegetation and construction of a trafficable carriageway.

All SL 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. The SL 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 Four Springs. 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 Four Mile.

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.

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 into account SPPs 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 Exclusion Boundaries

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

5.3 Shire of Wyndham-East Kimberley

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

Local Planning Strategy No.9

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

Four Mile 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.

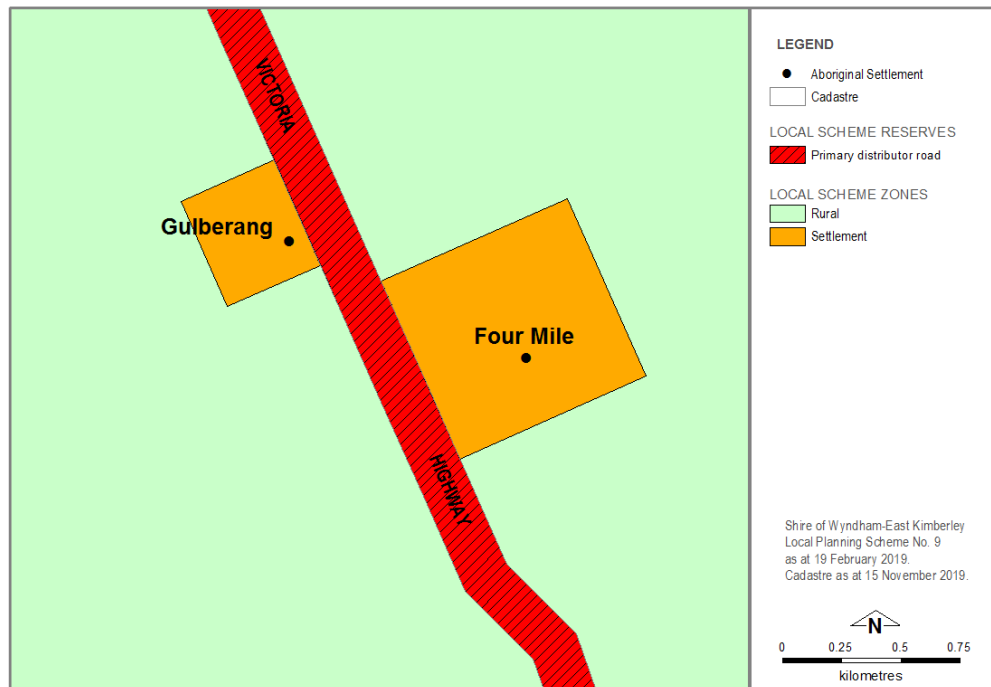


Figure 4 - Land classification under SWEK LPS 9, Four Mile & Gulberang

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

Four Mile Aboriginal Corporation Endorsement

Four Mile Community Layout Plan No.1

C/- PO Box 162
Kununurra, WA, 6743

The Four Mile Aboriginal Corporation (representing the community) hereby adopts the **Four Mile 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 17th Day of November 2010

Adopted by the Four Mile Aboriginal Corporation:

ERNEST JOHNSON



Director
[Please print and sign name]

Director

FREDERICK JOHNSON



Director


Director

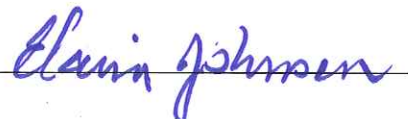
SHANE JOHNSON



Director

Director

ELAINE JOHNSON




MG Corporation Endorsement



Four Mile 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 **Four Mile 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:

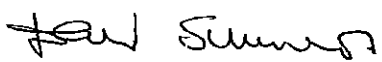
The17.....Day ofJanuary.....²⁰¹¹₂₀₁₀

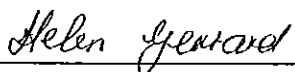
Adopted by the MG Corporation Board:

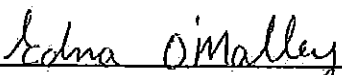
 _____	 _____
M. Cullen	TED CARLTON

Director
[Please print and sign name]

Director
[Please print and sign name]

 _____	_____
Director IAIN SUMMERS	Director

 _____	_____
Director HELEN GERARD	Director

 _____	_____
Director EDNA O'MALLEY	Director




Four Mile Community Layout Plan No.1

PO Box 614
Kununurra WA 6743

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

The 21st Day of JUNE 2011

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



Four Mile Community Layout Plan No.1

469 Wellington Street
Perth WA 6000

The Western Australian Planning Commission hereby endorses the **Four Mile 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
Four Mile representative meeting	March 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 Waringarri 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.

Reference

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

Four Mile 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 Four Mile 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 Four Mile 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

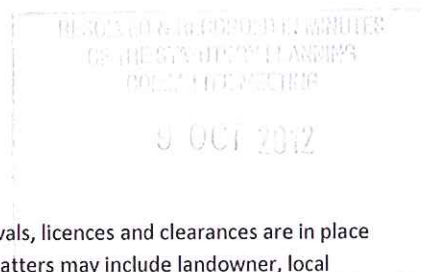

please sign and print name

Date: 0 / 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.



Four Mile Layout Plan No.1

Amendment No. 2

Proponent : Department of Housing (DoH)

Date : 1 November 2013

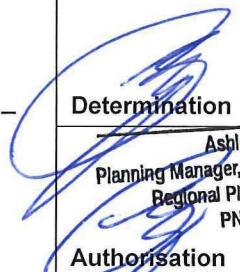
Reason for the Amendment

DoH requires a minor change of SL-lot numbering to Four Mile Living Area (Gulberang) map sheet to reflect Housing Management Agreements.

Issue / Proposal		Changes required to CLP
1.	SL-lot 3 (Gulberang)	To become SL-lot 5 (Gulberang)
2.	SL-lot 5 (Gulberang)	To become SL-lot 3 (Gulberang)

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>	 Determination 11/11/2013 date
	Ashley Randall Planning Manager, Aboriginal Communities Regional Planning & Strategy PN: 15151.1 Authorisation 21/11/2013 name & date

Other Information:

This Layout Plan does not constitute development approval.

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

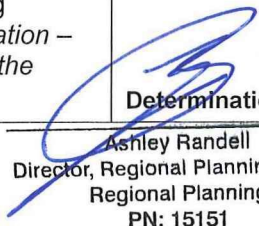
Endorsement:

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*.

Determination

date


Ashley Randell
Director, Regional Planning Policy
Regional Planning
PN: 15151

17/01/2020

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.

GULBERANG OUTLINE PLAN 1

Gulberang Outline Plan No. 1 (OP1) was prepared by the former Department of Planning during 2009-2010 in partnership with Galburring Aboriginal Corp. (GAC), MG Corp and OES. The 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 and Gulberang community endorsed the Gulberang OP1. However, as Gulberang is very small, it was not considered by the Shire of Wyndham East Kimberley or the Western Australian Planning Commission (WAPC) as it was not consistent with the definition of 'Aboriginal settlements' in State Planning Policy 3.2.

To assist in the coordination and delivery of services to Gulberang, OP1 was incorporated into the Four Mile Layout Plan 1 (LP1). On 9 October 2012 when the WAPC endorsed Amendment 1 to the Four Mile Layout Plan, this included incorporating the Gulberang Outline Plan 1.

The WAPC endorsed amendment 2 in November 2013 to incorporate administrative changes to the layout plan map-set, no changes were made to the background report. The endorsed amendments are listed in part 6 of this report.

The Amendment 3 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.

GULBERANG OUTLINE PLAN 1 - CONTENTS

EXECUTIVE SUMMARY	II
DEVELOPMENT PRIORITIES	III
1 REGIONAL CONTEXT	1
2 COMMUNITY PROFILE.....	1
2.1 POPULATION.....	1
2.2 GOVERNANCE & REPRESENTATION	1
2.3 LAND TENURE.....	2
2.4 ABORIGINAL HERITAGE.....	3
3 EXISTING INFRASTRUCTURE & SERVICES.....	4
3.1 HOUSING	4
3.2 WATER SUPPLY	4
3.3 ELECTRICITY SUPPLY.....	5
3.4 WASTEWATER	5
3.5 FLOODING & DRAINAGE	5
3.6 ACCESS & DEDICATED ROADS.....	5
3.7 INTERNAL ROAD LAYOUT	6
3.8 RUBBISH DISPOSAL	6
3.9 COMMUNITY SERVICES.....	6
4 RECOMMENDATIONS.....	7
4.1 ESSENTIAL & MUNICIPAL SERVICE DELIVERY	7
4.2 DRINKING WATER ANALYSIS AND PROTECTION.....	7
4.3 FUTURE HOUSING.....	7
5 PLANNING FRAMEWORK	8
5.1 STATE PLANNING POLICIES.....	8
5.2 EXCLUSION BOUNDARIES.....	8
5.3 SHIRE OF WYNDHAM-EAST KIMBERLEY	8
6 ENDORSEMENTS	10
GALBURRING ABORIGINAL CORPORATION ENDORSEMENT	A
MG DAWANG LAND TRUST ENDORSEMENT.....	B
WESTERN AUSTRALIAN PLANNING COMMISSION ENDORSEMENT	C
CONSULTATION & REFERENCES	D
AMENDMENTS	F

Community Contact Details

Representative Organisation	:	Gulberang community (Galburring Aboriginal Corp)
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 & Heritage
EHNS	:	Environmental Health Needs Survey
GAC	:	Galburring Aboriginal Corporation
ILUA	:	Indigenous Land Use Agreement (under the Native Title Act 1993)
KRSP	:	Kimberley Regional Service Providers
KWAC	:	Kununurra Waringarri Aboriginal Corporation
LP	:	Layout Plan
MG Corp	:	Yawoorong Miriung Gajerrong Yirrbeg 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

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

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

Table 1 – Population

Design Population	:	5
Existing population	:	1
Existing Service Capacity	:	5
Aspirational Population	:	5

Table 1 - Infrastructure and essential/social service characteristics at Gulberang

Infrastructure/service Indicator	Community Characteristics
Drinking water	Water obtained from solar-powered 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 freehold title held by MG Dawang Land P/L.
Flood / storm surge	Settlement and infrastructure not subject to flooding.
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	Gulburring Aboriginal Corporation. No designated office at community.
Employment and enterprise opportunities	Employment opportunities at Kununurra townsite approximately 20 minutes away by road.
Transport	Road access from Victoria Highway.
Food	Retail outlets at Kununurra, approximately 20 minutes away by road.
Electricity	Bushlight generator operated by community.

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 service strategy.

Within the next 5 years:

2. Clear, fill, drain and service SL-lot 2.
3. Construct housing on SL-lot 2, as required.

Within the next 10 years:

4. Upgrade power supply, as required.
5. Clear, fill, drain and service future residential area.
6. Construct additional housing, as required.

Implementing the LP

The implementation of this LP will rely on the energy and endeavour of the community members. The future growth of Gulberang 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 Galburring 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

See Four Mile report.

2 COMMUNITY PROFILE

2.1 Population

There is one dwelling at Gulberang, and it is understood from site visits that there is only one permanent resident at the settlement at the present time. The Environmental Health Needs Survey (EHNS) undertaken by the former Department of Indigenous Affairs in 2004 and 2008 gave the population of Gulberang as 4 people. It is likely that family members stay at the settlement from time to time. Galburring Aboriginal Corporation has 34 members.

Design population

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

One of the objectives of the LP is to ensure that 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 not known if the existing resident/s have an aspiration for Gulberang to grow or remain at its current size. Urban growth at Gulberang is constrained by the existing level of essential services available at the settlement. In particular, the Bushlight facility is understood to provide enough power for one house only.

In light of this, the design population for the LP based on the existing provision of services is 5 people. The LP also broadly depicts an area for future residential expansion, should significant improvements be made to the existing level of essential services.

2.2 Governance & Representation

Over time Miriung 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 Gulberang are summarised below.

Incorporated Community

The community is managed through its incorporated body - Galburring Aboriginal Corporation (GAC). Banjirringal Aboriginal Corporation was incorporated under the *Aboriginal Councils and Associations Act 1976* in 1989. The name of the organisation was changed to Galburring Aboriginal Corporation in 1992.

The aims of GAC are as follows:

- (a) relocate members away from town to their traditional country;
- (b) establish and develop their traditional land in a way that is beneficial to themselves and other Miriuwung countrymen;
- (c) establish an environment on its community which will encourage social activities for local Aboriginal youth such as horse riding;
- (d) work together with other Aboriginal communities to promote and improve the social and economic conditions of local Aboriginal people;
- (e) grow vegetables, orchard, and chickens to support the community members;
- (f) help and encourage its members to keep and renew their traditional culture; and
- (g) receive and spend grants of money from the Government of the Commonwealth or of the state or from other sources.

GAC is registered with the Office of the Registrar of Indigenous Corporations (ORIC). Documents on GAC 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, as is the situation with regard to land holdings at Gulberang.

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 Gulberang 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. Gulberang 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

2.4 Aboriginal Heritage

Notwithstanding the text box below, 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

LP No.1 does not have any 'no-go' areas.

Information about restricted areas for future development has not been ascertained from the community.

Registered Sites

There is 1 registered site overlapping the Gulberang settlement (ID 13460), as of November 2019.

The site is a painting (Wyndham Nicholson).

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.

3 EXISTING INFRASTRUCTURE & SERVICES

3.1 Housing

At the time of consultation, there was one dwelling at Gulberang.

Essential Services

3.2 Water Supply

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

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

Bore	<ul style="list-style-type: none">- 1 groundwater bore approximately 450m west of nearest house- Bore compound is fenced- Solar powered- Bore infrastructure is in good condition
Water tank	<ul style="list-style-type: none">- 1 poly tank approximately 10m south of nearest house- Tank on 10m elevated stand- 4000L capacity- Water tank compound is not fenced, although residents want to fence compound- Water tank is in good condition
Water distribution	<ul style="list-style-type: none">- No pressure pump- Condition of pipe work is unknown- Water pressure is adequate, no problems with water pressure
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">- Tank overflows resulting in pooling of water at base of tank. Float valve to be fitted to prevent this problem.

Bacterial testing of Gulberang's water supply was undertaken by the Shire of Wyndham - East Kimberley on 28 May 2008 upon request by KWAC. Results complied with Australian Drinking Water Guidelines. However, due to a lack of water treatment and disinfection, ongoing compliance with the national standards can not be assured (Shire of Wyndham - East Kimberley, cited in Department of Water 2008).

Due to the general lack of 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 Gulberang.

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 450m from the only residence at Gulberang, and therefore is unlikely to be at risk of contamination from urban uses.

3.3 Electricity Supply

Gulberang is located outside the Kununurra Electricity Licence Area, for which Horizon Power is the licenced electricity supplier. Residents are responsible for provision of their own electricity, with technical assistance from Bushlight and KWAC.

Gulberang obtains its power supply from a 5kva Bushlight solar system with a diesel backup, installed at the settlement in August 2006. The facility is located in a lockable shed adjacent to the dwelling at the settlement. The Bushlight system is integrated with the house wiring. (Horizon Power, 2008)

Given the nature of the Bushlight system and the fact that it was installed to provide the only house at Gulberang with a reliable power supply, its location is considered acceptable from a land use planning perspective.

The Bushlight facility enables Gulberang to be self-sufficient in terms of electricity provision, however the system only has capacity to service one dwelling. If Gulberang is to expand in the future, a new power supply with an increased capacity will need to be provided.

3.4 Wastewater

It is understood that the dwelling at Gulberang disposes of wastewater via a septic tank and leach drain. This method of on-site wastewater disposal is considered appropriate for the settlement.

Municipal Services

3.5 Flooding & Drainage

Gulberang is not subject to inundation from nearby watercourses. It is understood that no serious damage to housing or infrastructure is caused by flooding or stormwater run-off.

3.6 Access & Dedicated Roads

Road access to Gulberang is via Victoria Highway. By road, the settlement is located approximately 28km from Kununurra and 15km from the Northern Territory boundary. Victoria Highway is sealed and is predominantly a single carriageway (two lane - two way) road. The Highway provides reliable year-round access to the settlement and is maintained by Main Roads Western Australia.

The dwelling can be accessed from the Highway by two unsealed, compacted gravel access roads, as shown in Figure 1.

Figure 1 - Location of Gulberang adjacent to Victoria Highway



3.7 Internal Road Layout

In addition to the two access roads into Gulberang from Victoria Highway, there is a track that extends approximately 450m to the settlement's bore.

3.8 Rubbish Disposal

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

3.9 Community Services

Residents of Gulberang 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 settlement.

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 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 Gulberang 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 (substantial residential expansion) at Gulberang 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 Gulberang. 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 Gulberang.

However given the small design population, a DWSPP is considered a low priority for Gulberang.

4.3 Future housing

Gulberang effectively functions as a self-sustaining settlement, with the Bushlight system and solar-powered bore providing electricity and drinking water to the single dwelling.

The provision of any additional housing at Gulberang should only occur after the upgrading of essential service infrastructure. The LP plans for one future residential SL-lot next to the existing house, should the capacity of the Bushlight facility be increased to a level that can sustain two dwellings.

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 Exclusion Boundaries

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

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.

Wijilawarrim 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.

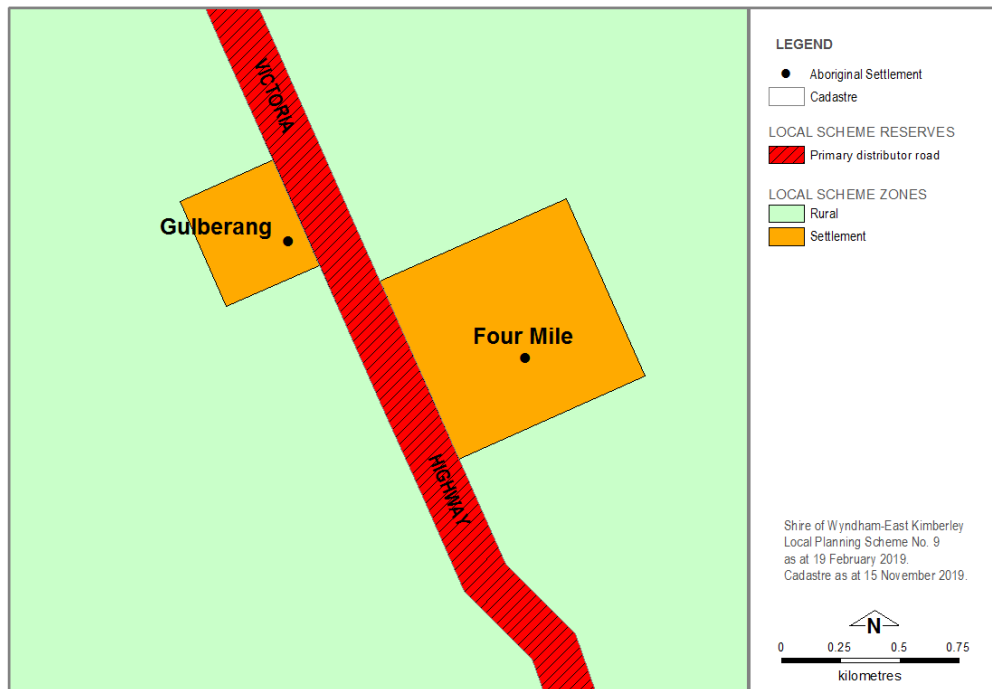


Figure 2 - Land classification under SWEK LPS 9, Gulberang

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

Galburring Aboriginal Corporation Endorsement

Gulberang Outline Plan

Galburring Community
via Kununurra
WA 6743

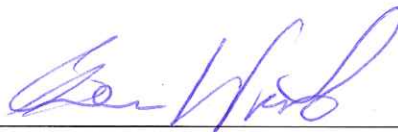
The Galburring Aboriginal Corporation (representing the community) hereby adopts the **Gulberang Outline Plan (2010)** as a guide for future development within its boundaries.

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 17th Day of November 2010

Adopted by the Galburring Aboriginal Corporation:

JOHNNY FRIDAY



Director
[Please print and sign name]

Director

Director

Director

Director

Director

MG Corporation Endorsement

Gulberang Community Layout Plan No.1



PO Box 2110
Kununurra WA 6743

MG Corporation (representing the traditional owners of Miriwung Gajerrong #1 & #4 native title determinations) hereby adopts the **Gulberang 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.....2010

Adopted by the MG Corporation Board:

M. Allen

Ted Carlton

M. Allen

TED CARLTON

Director
[Please print and sign name]

Director
[Please print and sign name]

Ian Sumner

Director IAN SUMNER

Director

Helen Gerrard

Director HELEN GERRARD

Director

Edna O'Malley

Director

EDNA O'MALLEY

Director

Four Mile Community Layout Plan No.1

140 William Street
Perth WA 6000

The Western Australian Planning Commission endorsed the **Gulberang Outline Layout Plan No.1 (2010)** on 9 October 2012 as a part of Amendment 1 to the Four Mile Layout Plan 1.

CONSULTATION & REFERENCES

CONSULTATION

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

Information was obtained from the following sources.

Organisation	Date
Gulberang site visits	March 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 Waringarri Aboriginal Corporation	July 2010
Shire of Wyndham-East Kimberley	Oct 2009
Landgate	Oct 2009
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.

REFERENCE

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. Miriuwung-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 Karunje 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

Four Mile Layout Plan No.1

Amendment No. 2

Proponent : Department of Housing (DoH)

Date : 1 November 2013

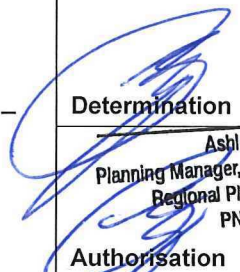
Reason for the Amendment

DoH requires a minor change of SL-lot numbering to Four Mile Living Area (Gulberang) map sheet to reflect Housing Management Agreements.

Issue / Proposal		Changes required to CLP
1.	SL-lot 3 (Gulberang)	To become SL-lot 5 (Gulberang)
2.	SL-lot 5 (Gulberang)	To become SL-lot 3 (Gulberang)

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>	 Determination 11/11/2013 date
	Ashley Randall Planning Manager, Aboriginal Communities Regional Planning & Strategy PN: 15151.1 Authorisation 21/11/2013 name & date

Other Information:

This Layout Plan does not constitute development approval.

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

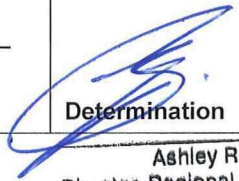
Endorsement:

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*.

Determination

date

 17/01/2020
Ashley Randell
Director, Regional Planning Policy
Regional Planning
PN: 15151

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.