

Ngallagunda

Layout Plan 2

Background Report

December 2010

Date endorsed by WAPC



Amendments

Amendment 1 - November 2012

Amendment 2 - October 2013

Amendment 3 - May 2014

Amendment 4 - March 2017

Amendment 5 - May 2018

Amendment 6 - January 2020

NGALLAGUNDA LAYOUT PLAN 2

This background report was prepared over a 12 month period between July 2009 and June 2010.

Layout Plan 2 (LP2) was endorsed by the Ngallagunda Aboriginal Corporation (NAC) on 7 July 2010 and the Shire of Wyndham-East Kimberley, on 11 August 2010. The Western Australian Planning Commission (WAPC) endorsed the LP on 14 December 2010. Traditional owners, Wanjina-Wunggurr Native Title Determination holders endorsed the LP on 21 August 2013.

During the period November 2012 to December 2019 the WAPC endorsed 5 amendments to LP2. The endorsed amendments are listed in Part 7 of this report. All of the amendments were map-set changes, with no changes made to the background report.

Consequently, the background report became significantly out-of-date, and in January 2020 it was comprehensively updated as part of Amendment 6. The Amendment 6 background report update sought to keep all relevant information, while removing and replacing out-of-date references and data. All temporal references in the background report refer to the original date of preparation, unless otherwise specified.

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

Resident community representative organisation	: Ngallagunda Aboriginal Corporation
Traditional Owners representative organisation	: Wanjina-Wunggurr (Native Title) Aboriginal Corporation RNTBC
Related organisations	: Winun Ngari Aboriginal Corporation

Acronyms

ABS	: Australian Bureau of Statistics
AHA	: Aboriginal Heritage Act (WA) 1972
ATSIC	: Aboriginal and Torres Strait Islander Commission
CAT	Centre for Appropriate Technology
DAHS	Derby Aboriginal Health Service
DEC	Department of Environment and Conservation
DIA	: Department of Indigenous Affairs
DoC	: Department of Communities (Housing)
DPLH	: Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
DWSPP	: Drinking Water Source Protection Plan
EHNS	: Environmental Health Needs Survey
IARE	Indigenous Area
ILUA	: Indigenous Land Use Agreement (under the Native Title Act 1993)
KRSP	: Kimberley Regional Service Providers
LP	: Layout Plan
NAC	Ngallagunda Aboriginal Corporation
NNTT	: National Native Title Tribunal
NTA	: Native Title Act (Commonwealth) 1993
ORIC	Office of the Registrar of Indigenous Corporations
PBC	: Prescribed Body Corporate (under the NTA, representing native title holders)
RAESP	: Remote Area Essential Services Program
RFDS	Royal Flying Doctor Service
RNTBC	Registered Native Title Body Corporate
SL-lot	Settlement layout lot
SLIP	Shared Land Information Platform
SPP	State Planning Policy
SWEK	Shire of Wyndham-East Kimberley
TAFE	Technical and Further Education
WAPC	: Western Australia Planning Commission

Layout Plans & the Development Process

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

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

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

EXECUTIVE SUMMARY

The Ngallagunda Layout Plan No. 2 was prepared over a 12 month period between July 2009 and June 2010. It replaced the Ngallagunda Layout Plan No. 1 (2003). The tables below summarises the main issues concerning the planning, development and provision of services within Ngallagunda, covered in more detail in the body of this report.

Table 1 – Population Summary

Existing Population :	75
Design Population :	97

Table 2 - Place Characterisation Indicators

Indicator	Community Characteristics
Drinking water	Water for community residents is obtained from 2 bores that supply an overhead tank. Bore 2/97 (solar powered) acts as the primary water supply bore and has a yield of approx. 250m ³ /day. Bore 1/97 (diesel powered) acts as an emergency supply and has a yield of 300m ³ /day. Water is treated in a chlorination system.
Electricity	Electricity is provided by three diesel generators with manual start/stop and auto synchronisation and loadsharing. The system is maintained and fuel supply is provided by KRSP.
Flood	The community is prone to flooding due to a concentrated wet season. There are 2 watercourses that transect the community and during the wet season the areas adjacent to these creeks become inundated with water. This results in drainage and septic tank issues for residences in these areas.
Land tenure	Ngallagunda is on a portion of the Gibb River pastoral lease, lot 17 on DP 221086.
Wastewater	Sewage generated from the community is treated via individual septic tanks and associated leach drains.
Emergency assistance	Emergency services (police,hospital) are more than 2hrs travel time. In the case of medical emergency, the services of the clinic nurse and the RFDS are available.
Education	The Catholic Education Office operate the Wanalirri Catholic School in the community for Kindergarten to Year 7 students.
Health	A clinic exists in the community with a permanent full-time clinic nurse who also services nearby communities. A doctor visits the community once a month and the community is also serviced by specialists and the RFDS.
Food	There is a small store in Ngallagunda. Hunting and fishing provides a portion of the diet of residents.
Transport	Gibb River Road is closed during the wet season. Depending on the wet season the Gibb River Road is officially opened sometime between mid-April and mid-May. The community has an airstrip with access for the RFDS.
Waste services	Rubbish is disposed of in a site approximately 1km to the north-east of the community.
Employment & enterprise	Community members work on Gibb River Station and are involved in the Community Development Employment Projects (CDEP) program.
Governance	Ngallagunda Aboriginal Corporation (NAC) was incorporated in 1989 under the federal <i>Aboriginal Councils and Associations Act 1976</i> . NAC manages Gibb River Pastoral Company Pty Ltd, which holds the lease for Gibb River station, which surrounds the Ngallagunda community.
Aboriginal heritage	The Federal Court reached a determination of native title for the Wanjinna-Wunggurr Wilinggin claim in 2004. This determination covers over 60,000 square kilometres in the northern Kimberley, including the area of Ngallagunda.

LP2 plans for future expansion of the community and formalises existing infrastructure and land-uses and provides a settlement layout lot (SL-lot) and settlement layout (SL) road design.

The major purpose of the LP2 is to guide the growth and development of Ngallagunda by providing a layout of existing and future land uses in the community. LP2 addresses future growth issues in the context of constraints to development including available land for growth of the living area and the location of essential service infrastructure.

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

DEVELOPMENT PRIORITIES

The following initiatives were developed by the community in 2009-2010 and were considered to be needed to implement LP2:

Within the next year:

1. Pursue excision of the community area from the pastoral lease along with two other outlying parcels relating to proposed tourism camps. Service authority clearances should continue being pursued, and the excision completed.
2. Investigate the feasibility of development on SL-lot 8 and refurbishment, relocation or demolition of housing on SL-lots 9, 10, 11 and 12.
3. Investigate the realignment of water services to enable development of SL-lot 31
4. Assess water pressure issues with households located at higher elevations and take into account height levels of the building for future development when setting the water pressure.
5. Undertake investigation into a reticulated sewerage disposal system as a priority to replace the current inadequate septic tank and leach drain systems.
6. Establish and fence the Stage 1 area identified for market gardening and establish a planting and watering strategy.

Within the next 5 years:

1. Develop three new houses on existing SL-lot 23, 24 and 29 identified within the LP.
2. All roads should be formed, raised, gravel-sheeted and appropriately drained to ensure all year access.
3. Undertake earthworks/grading to ensure stormwater is diverted around the houses towards the creek located to the south of the houses on SL-lots 7 - 12.
4. Develop a naming system for roads.
5. Implement a stockyard dust and odour management plan to include watering and stock management measures to reduce the impact on nearby dwellings.
6. Establish a primary landscaping buffer along Bryce Creek to delineate the community area from the camping ground and potential tourist use areas to the east, and a secondary landscaping buffer along the low-lying area between the office and school and continuing both north and south west.
7. Establish and fence the Stage 2 area identified for market gardening and establish a planting and watering strategy.

Within the next 10 years:

1. Provide services to new SL-lots.
2. Develop four new houses.

Within the next 15 years:

1. Review LP including population growth and trends.
2. Develop housing as required in the future expansion area.

Implementing the Layout Plan

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

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

1 BACKGROUND

1.1 Location & Setting

Ngallagunda is in the northern Kimberley, within the Shire of Wyndham-East Kimberley. It is located approximately 380 km north-east of Derby by road and 315 km south-west of Wyndham by road. Ngallagunda is located to the immediate north of the Gibb River Rd - a major route for tourists throughout the dry season (April to December).

The community is in the valley of Bryce Creek, which flows southwest through the community. There are many soaks and springs in the area with a corresponding high water-table. The soil consists of a mixture of heavy clays, fine loams, and exposed sandstone outcrops. Vegetation in the area is defined as savannah woodland, which is basically tall grassland with trees. The only substantial trees in the community are those planted by community members, the centrepiece being a stand of large mango trees near a natural soak creating a cool green area used as a meeting place at the entry to the community residential area.

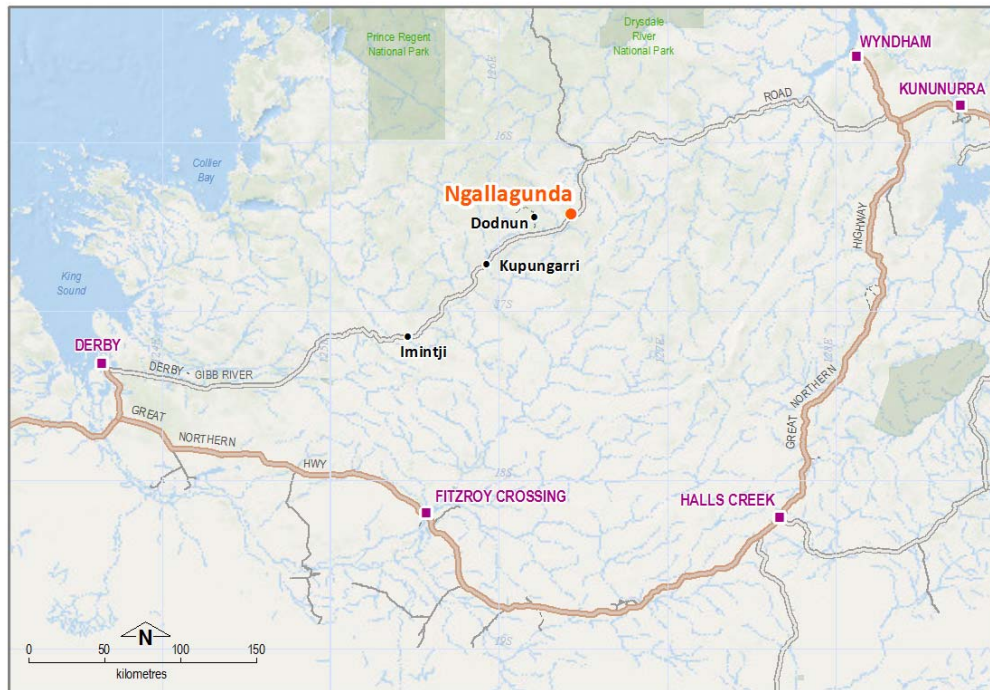


Figure 1 – Regional context of Ngallagunda

1.2 Climate

The location of Ngallagunda on the Gibb River Rd results in a mixed inland tropical wet season with an inland semi-arid dry season. The result is high temperatures with high levels of humidity in the wet season (with medium levels of rainfall) and high day time temperatures and cool night time temperatures in the dry season. Winds are generally reliable with the cold easterly and south-easterly predominant in the dry season and an even spread of wind from all sectors in the wet season.

Traditionally, Aboriginal people of the north Kimberley region have observed five seasons, each of which has definite associations with the emergence of particular flora and fauna. The months of September, October and November are associated with dry new shoots, whilst December, January and February are traditionally regarded as a time of water. Total annual rainfall in this area measures approximately 1000mm which falls predominantly between December and April each year. March, April and May is routinely identified as wet and green, and June and July as cold. August and September is regarded as a hot time.

1.3 History

Pre-contact and early contact history

There has been little archaeological research conducted in the north Kimberley but the available evidence demonstrates an increasing use of the region in which Ngallagunda is now located from at least 6,000 years bp (Neowarra v State of Western Australia [2003] FCA 1402 (p.46) and Veitch 1999a, 1999b). In addition, linguistic research demonstrates the likely development of the Ngarinyin language, the language spoken by the bulk of Ngallagunda residents, from at least 1000 years ago.

The expedition led by F.S. Brockman in 1901 was the first instance of non-indigenous people travelling extensively over the wider area in which Ngallagunda is located today. Brockman's expedition traversed the interior of the northern Kimberley from Walcott Inlet in the west to the Durack Ranges in the east, and the Drysdale and Woodhouse Rivers to the north.

The presence of the Ngarinyin people, and the language that they spoke and identified themselves with, was recorded by white people as early as 1915, but linguistic research (Neowarra v State of Western Australia [2003] FCA 1402) suggests that the Ngarinyin has been developing in situ for a very long time, at least in the order of a thousand years. The Wunambal and Worrorra language groups were also known by 1915, and there is early documentation of a high degree of inter-marriage existing between members of Ngarinyin, Wunambal and Worrorra language groups.

1900 -1960s The Pastoral Industry, Government Settlements and missions

Two major forces structured the lives of Aboriginal people in the northern Kimberley from the early twentieth century to the 1960s: the development of the pastoral industry and the institutionalisation of Aboriginal people in government settlements and missions. Whereas the Fitzroy Valley was subject to pastoral occupation from the 1880s, pastoral activity didn't affect the northern Kimberley, including the Gibb River region until the early 20th century. The father of Alfie White, chairman of Ngallagunda Aboriginal Corporation in 2010, played a significant role in building the Gibb River station homesteads in the 1920s.

Munja and, later, Mowanjum, on the outskirts of Derby, were government stations at which Ngarinyin people resided from the 1950s onwards. These settlements meant that Aboriginal people from very widespread areas were concentrated in permanent settlements, with many different groups inter-marrying. Life on these settlements routinely involved an alienation from people's traditional country. Working on pastoral stations, by contrast, provided a means by which Aboriginal people could stay on or near their traditional country, with elderly relatives and children being able to live in the same places as station workers. The seasonal character of pastoral labour enabled Aboriginal families to spend significant periods each year conducting traditional activities such as hunting and food collecting, ceremonial activities and visiting relatives.

For most of the 1900s Aboriginal stockmen, station-hands and domestic helpers were paid in kind – lodging and rations. Wages were not introduced for Aboriginal workers until 1950, but these were not uniform or commensurate with non-Aboriginal wages. The Commonwealth Government Pastoral Industry Award became applicable in the Kimberley in 1968, which entitled Aboriginal workers to equal wages, holiday and sick pay.

Whilst this introduced a formal equality to the labour market, it meant that many stations could not function as they previously had when they could rely upon a good deal of seasonal, skilled, and cheap labour. This resulted in a large out-migration from pastoral stations to towns and reserves.

Jebb (2002) estimated that by the late 1970s, only 15% of Aboriginal people in the Kimberley remained on Kimberley stations. This also meant that many stations that had depended on cheap skilled Aboriginal labour became unviable.

Many Aboriginal families developed close relationships with white station bosses that sometimes included shared relationships of marriage and child-rearing. The Russ family were central figures at Gibb River pastoral station from its inception until after its sale to the Ngallagunda community in the late 1980s, remaining in the community to work in service provision roles.

1970s to present: homelands and incorporated Aboriginal communities

The 'homelands' or 'out-station' movement, is generally regarded as beginning from the 1970s. This refers to widely held aspirations of Aboriginal people to return and live on their traditional countries. Such community aspirations coincided with some government commitment to 'self-determination', whereby Aboriginal people, formed as communities under the *Aboriginal Councils and Associations Act 1976*, were able to obtain some measure of control over their own political and civic administration. Sometimes this meant the transfer of stations, former missions or government settlements to Aboriginal communities, or in other cases, the establishment of new communities and out-stations on traditional country. In the case of Ngallagunda, an incorporated community was established on traditional Ngarinyin country, on Gibb River station. Gibb River station itself was purchased by the Ngallagunda community with the aid of the Aboriginal Development Commission in the late 1980s. So in the case of the bulk of Ngallagunda's residents, the community represents both a return to traditional country and to an area where many people had had significant associations with station life.

The Ngallagunda Aboriginal Corporation was incorporated under the federal *Aboriginal Councils and Associations Act 1976*, and has been the governing body for the Ngallagunda community since 1989.

The community members of Ngallagunda have close affiliations with other settlements in the region, including the nearby communities of Dodnun and Imintji, and Derby, Mowanjum, Wyndham, Kununurra and Kalumburu. There is a lot of movement of people between these communities.

Formal recognition of rights to country

The traditional Aboriginal rights and interests in the country that includes Ngallagunda were recognised by the Federal Court in 2004, as part of the Wanjina-Wunggurr Wilinggin WAD6015/99 native title claim. This recognition underlines the continuity of association with areas including Ngallagunda, and the obligations that attend to current community members to ensure an ongoing sustainable future for present and future generations. It is within this historical and political context - and reflecting the needs and aspirations of the present generation - that land-use planning for Ngallagunda's future is situated.

1.4 Previous Layout Plan

The preparation of Layout Plan 1 (LP1) for the Ngallagunda Community was commenced under the ATSIC / DIA – Planning for Aboriginal Communities Works Program, which was managed on behalf of ATSIC by engineering company Parsons Brinckerhoff. Its finalisation was undertaken following the adoption of SPP No.3.2 by the WAPC and complied with the Guidelines for the Preparation of Layout Plans. The Ngallagunda Community Council adopted the LP in December 2002, and it was subsequently endorsed by both the Shire of Wyndham-East Kimberley and the WAPC in 2003. Amendment 1 to LP1 was approved in August 2005. The LP was not endorsed by the Traditional Owners.

LP1 identified the usual resident population at approximately 120 people, with limited growth expected. The provision of 2 – 3 houses from that time was expected to result in an increase in population to 130 people by the year 2010. Without attention to the location of existing houses within the flood zone and lack of employment and income opportunities, this population increase has not been realised.

The layout design acknowledged the key aspirations of the community to improving road access and stormwater drainage arrangements within the community, and identifying a site for a new cultural, arts, information centre.

The layout design extended the existing land use 'ring road arrangement' to the west and recognises the pastoral heritage value of the old homestead and work area. The issue of unsatisfactory road access was emphasised as needing urgent attention due to the severe drainage and water flow implications impacting the community. The design layout was significantly constrained by existing development and the lack of additional suitable land. The provision of land for future growth is limited and was identified as needing more detailed investigation.

The original homestead still stands together with the replacement homestead built in the 1960's. The old Gibb River homestead buildings are important structures in Ngallagunda, and the community wishes to enhance their value by restoring them. There was an intent to establish a cultural heritage precinct for the protection and enhancement of the buildings and area in which they are located, which is still supported by the Community under LP2. A future cultural/arts/information centre site and camping ground have also been shown immediately opposite on the entry road into the community. The intent of the community regarding this entry area has developed further since the endorsement of LP1.

The previous LP adequately describes the infrastructure that existed at the time, however there is a clear need to review the current situation in LP2 as some services have been upgraded and others are in need of maintenance.

The cultural values and anthropology of the community were not well addressed in the previous LP and it is the intention of LP2 to clearly define the influence of cultural values and aspirations on planning within the LP.

2 COMMUNITY PROFILE

2.1 Population

Table 3 – Population

Existing Population :	75
Design Population :	97 (2023)

Existing Population

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

There is a significant movement of Ngallagunda residents in and out of the community according to patterns of marriage, employment opportunities, and health care needs. The community members of Ngallagunda have close affiliations with other settlements in the region, in particular Dodnun, Imintji, Derby, Wyndham, Kununurra and Kalumburu.

Population estimates also vary depending on the time of year of enumeration, methods and sources by which data are collected. As Ngallagunda is not listed by the Australian Bureau of Statistics (ABS) as an Indigenous Area (IARE) there are no population estimates available from that source.

LP1 recorded that the usual resident population was approximately 120 people in 2003. The Ngallagunda core population was considered relatively stable due to it being family-based and directly involved with a working pastoral station. Some population variation results from the seasonal operation of the pastoral station and families accommodating visitors, and overcrowding was known to occur at different times of the year. In 2004 the former Department of Indigenous Affairs (DIA) Environmental Health Needs Survey (EHNS) recorded a usual population of 80 inhabitants, excluding non-permanent staff.

The community was seen as being a relatively small place that should remain much as it is, with only limited growth expected. The provision of new housing was expected to be in the order of 2-3 houses, with a predicted population increase to 130 people by the year 2010.

In addition to the above, a key source of population data is from the community itself. Consultations with members of the Ngallagunda community in August 2009 confirmed that the resident population has dwindled in recent years, with between 35 and 50 permanent residents. The principal factor cited as a reason for this decline in population was a shortage of housing. Because of rising water levels during flood periods, many of the houses were often over-run with water, placing these houses and the community at risk. It was estimated that only nine houses were fully safe from flood conditions. These conditions have led to out-migration from the community, and prevent any new residents settling there.

Table 4 – Population figures by source 1993-2009

	1993/4	1994/5	1997	1999	2001	2004	2008	2009	2011
Population	72	45	80	130	120	80	60	50	75
Source	Planning Report	EHNS	EHNS	DIA – AIMS (included visitors)	Ngallagunda Survey – LP1	EHNS	EHNS	Ngallagunda Survey – LP2	SLIP – DPLH – 002 (ABS & Dept. of Housing)

A more recent estimate of the existing population is from 2011. The "Aboriginal Communities and Town Reserves DPLH-002" dataset sourced from the Shared Land Information Platform (SLIP) located at <https://data.wa.gov.au> puts the population estimate of Ngallagunda at 75, based on the 2011 Census and former Department of Housing information.

Design Population

Based on the aspirations of the community to develop tourism areas, generate employment and attract residents back to the community, this assessment assumes future growth of the community.

The 2010 version of the background report made the following estimates and assumptions:

The estimated design population for Ngallagunda over a 15-year period, based on a current population of 50 and an annual growth rate of 5 per cent, is 80 residents by 2019 (10 years) and **97** residents by 2023 (15 years).

The following table outlines the estimated population growth over the next fifteen years with a constant annual growth of 5% per year. It is likely, however, that the population growth will not be constant over that period of time, and will be contingent on migration to and from the community as well as natural increase from births and deaths.

Migration to and from the community will be influenced among other things by the employment opportunities, family networks and obligations, and the services and infrastructure available in the community (including number and type of housing).

All the same, the estimates above can be used as a reasonable though generalised estimate of population growth and the associated demand for housing during the next fifteen years. These figures should be re-evaluated when the LP is next updated (i.e. roughly every five years).

In short, it is estimated that 10 new houses will have to be constructed, requiring 6 new residential SL-lots, and the existing housing stock adequately maintained so that these houses are habitable during the next fifteen years, in order to maintain the estimated current population density average of 4 to 5 residents per house.

The actual population density per house will vary depending on a number of factors including extended-family obligations, household composition (number of adults and children living in the same house) and the number of bedrooms in the house. Consequently, it can be expected that a number of existing and future dwellings will have considerably fewer than 4 people living in them, while others may have many more, depending on these factors.

Table 5 – Demand for additional housing assuming 5% population growth 2009-2023

Year	Population estimate (growth @5% p.a.)	Housing density based on existing no. of habitable houses (12)*	No. additional houses needed to maintain existing housing density (4)	Total housing stock needed (excluding staff housing)
2009	50	4		13*
2010	52	4		13
2011	55	4.2	1	14
2012	57	4.4		14
2013	60	4.6	1	15
2014	63	4.8		15
2015	66	5	1	16
2016	69	5.3		16
2017	73	5.6	1	17
2018	76	5.8	1	18
2019	80	6.2	1	19
2020	84	6.5	1	20
2021	88	6.8	1	21
2022	92	7	1	22
2023	97	7.5	1	23

* Note that two existing residences are uninhabited due to flooding/inundation and unsafe septic systems and have not been included in this assessment. With appropriate management and consideration of a sewerage system, these houses could be reconsidered as housing stock.

2.2 Governance

Incorporated Community

The community is managed through its incorporated body - Ngallagunda Aboriginal Corporation (NAC). NAC was incorporated under the *Aboriginal Councils and Associations Act 1976* in 1989.

The corporation aims to provide direct relief from poverty, sickness, suffering, destitution, misfortune, distress and helplessness to all Aboriginal people in the Kimberley District of Western Australia without discrimination and to include, but without limiting the generality of the above, the following:

- a) help and encourage its members to keep and renew their traditional culture;
- b) support the social development of its members in all ways;
- c) help to bring about the self-support of its members by the development of economic projects and industries;
- d) support education, job training, health services, work and housing for its members;
- e) help and encourage its members to manage their affairs upon their own lands;
- f) help build trust and friendship between its members and other people;
- g) participate with other Aboriginal Corporations in projects for their mutual benefit; and
- h) receive and spend grants of money from the Government of the Commonwealth or of the State or from other sources.

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

2.3 Land Tenure

Ngallagunda is located on a portion of the following title as of December 2019:

<i>Tenure</i>	Gibb River pastoral lease (PL N049688)
<i>Lot Details</i>	Lot 17 on DP 221086
<i>Certificate of Title</i>	LR3015/625
<i>Primary Interest Holder</i>	Ngallagunda Aboriginal Corporation
<i>Area</i>	114,210 ha

All community housing and infrastructure is located on Lot 17.

A survey for an excision of Ngallagunda from Lot 17 on DP 221086 was lodged with Landgate on November 7 1997 and is currently shown in Landgate's 'Lodged Cadastre' layer, as of December 2019.

Crown survey CP 19684 describes an excised crown allotment, Lot 35 P219684 (797.64 hectares) and a Public Road lot to the south of Lot 35.

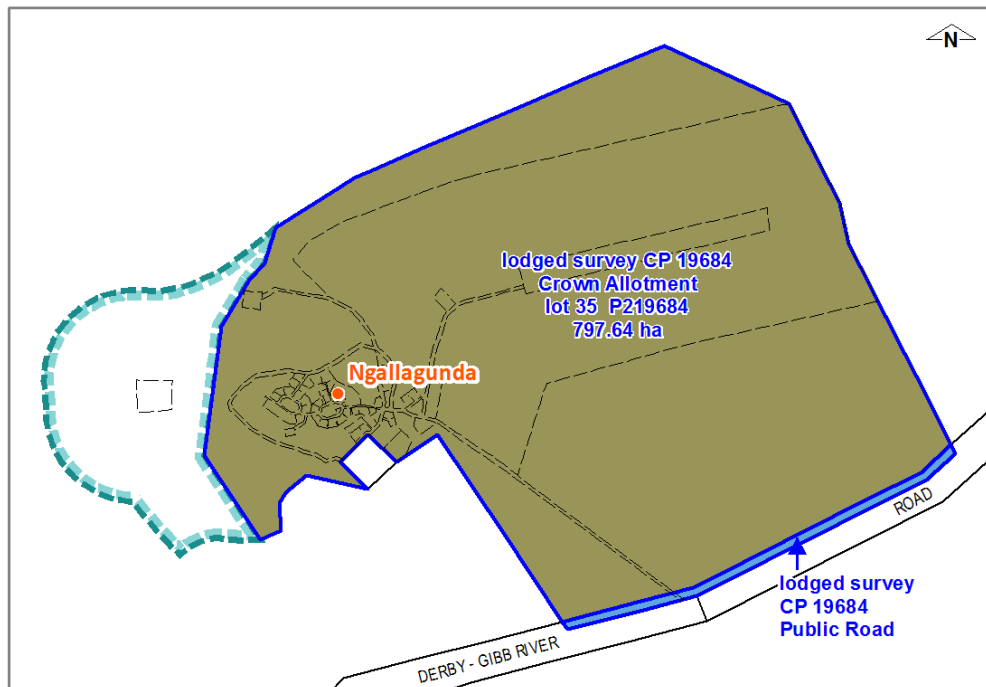


Figure 2 – Lodged cadastre (blue) over Ngallagunda (December 2019)

2.4 Native Title

The community is located within the determination area of the Neowarra v State of Western Australia [2004] FCA 1092 determination (aka Wanjina - Wunggurr Wilinggin Native Title Determination No 1 WAD44/2019 determination), determined on 27 August 2004.

The Registered Native Title Body Corporate is Wanjina-Wunggurr (Native Title) Aboriginal Corporation RNTBC.

For further information refer to the determination on the Federal Court of Australia website link: <http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2004/1092.html>

Background to Native Title in Australia

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

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

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

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

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

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

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

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

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

More information about native title can be obtained from the [National Native Title Tribunal](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2004/1092.html).

2.5 Aboriginal Heritage

Notwithstanding the previous section, the following discussion of heritage matters was derived from consultation with the community and a desk-top survey of sites registered under the *Aboriginal Heritage Act (WA) 1972* (AHA) using the [Aboriginal Heritage Inquiry System](#) (AHIS).

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 advised that there are two cultural areas within the vicinity of the living area.

One area is to the immediate south-west of the power house (SL-lot 44), where there are several burial sites. It is understood that this is for the protection of a burial area, as distinct from the "official" cemetery. The other is in the area of the cemetery (SL-lot 37) immediately to the south of SL-lot 58.

Registered Sites

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

There is one registered painting site, ID 14372 and no other heritage sites within the vicinity of the Ngallagunda community, as of December 2019.

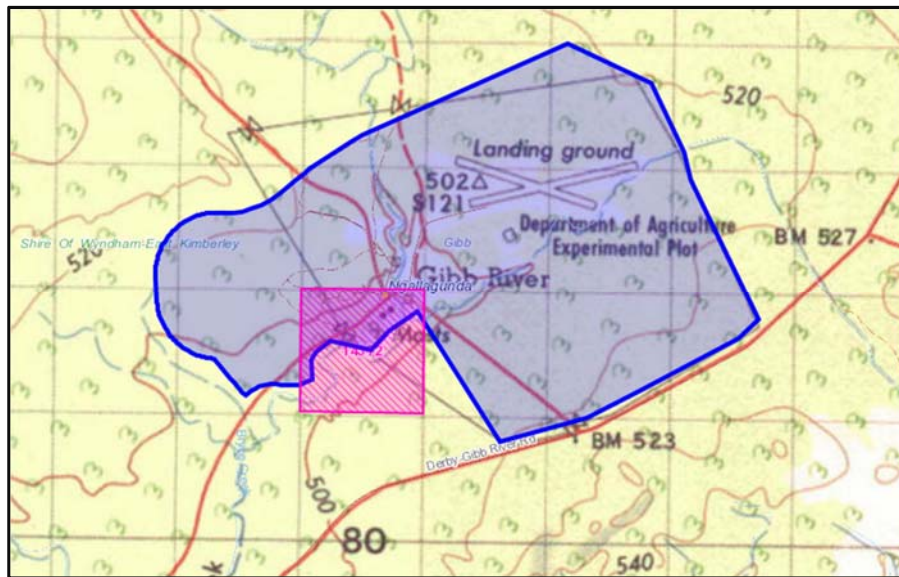


Figure 3 – Registered Aboriginal Site 14372 in proximity to Ngallagunda (December 2019)

Any future development at the community should therefore be undertaken in consultation with the community and Wanjina-Wunggurr (Native Title) Aboriginal Corporation RNTBC, who represent the native title holders, to ensure adequate avoidance of sites.

Built Heritage

While the Gibb River homestead is not a registered site under the *Heritage of Western Australian Act 1990*, or the Shire's Municipal Heritage Inventory, the homestead buildings are important structures in Ngallagunda, and the community wishes to enhance their value by restoring them. Some older residents at Ngallagunda have close forebears that were directly involved in their construction, and the restoration of these buildings is seen as an appropriate way to honour the

special role that Ngallagunda residents and their forebears played, and continue to play, in the development of Gibb River station.

Impact of Aboriginal Heritage on Urban Growth in Remote Aboriginal Communities

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

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

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

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

2.6 Community Aspirations

At the time of consultation during 2009-2010, two visits to the community were undertaken to consult with the community, in order to understand the issues and opportunities, and discuss the aspirations of the community in detail.

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

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

1. Improvement of existing housing affected by flooding with associated drainage and sewer works;
2. Additional future housing to meet population growth;
3. Market garden / Horticultural activities;
4. Playing oval;
5. Expansion of the office to include a café and store to accommodate needs of both the community and visitors;
6. Footbridge and drainage infrastructure to provide pedestrian access between the living area and the office during the wet;
7. Fencing and cattle grates to prevent stock entry to the living area and burial areas to the south;
8. Camping areas for tourism operators to the east of Bryce Creek;
9. In the event that the store relocates to the office building at the entry to the community living area, expansion of the clinic into the current store area;
10. If alternative accommodation becomes available for the clinic nurse, the residence on SL-lot 16 should be considered for an alternative use (e.g. business, office) as it lies within the 200m powerhouse buffer.

3 INFRASTRUCTURE & SERVICES

Ngallagunda is a part of the Remote Area Essential Services Program (RAESP) conducted by the Department of Communities (Housing). The remote service provider managing Ngallagunda is unknown at the time of the 2019 update.

3.1 Electricity Supply

The Environmental Health Needs Survey 2004 identified that most communities use some sort of generator for their electricity supply. The Centre for Appropriate Technology (CAT) provides municipal services to the community, including fuel supply for power generation.

Present capacity & location

The existing power station is comprised of three diesel-fuel generators located immediately south of the living area on SL-lot 44, with above ground reticulation to most buildings and workshops. Fuel storage is approximately 55 kls, which is adequate for 6 months. There is adequate diesel fuel truck access to the power compound. When fuel shortages have occurred in the wet season it appears to be due to existing supplies not being replenished prior to the wet season. There is adequate capacity in the power infrastructure to supply future community needs.

The nearest residential dwellings are located within 200m of the diesel power station which is not considered to be appropriate under the WAPC Aboriginal Settlement Guideline 3: Layout Plan Exclusion Boundaries (2012).

It is recommended that if alternative accommodation becomes available, the Clinic Nurse's residence on SL-lot 16 be considered for an alternative use (e.g. business, office).

Future location of power supply

As the community is remote, there is no opportunity to regularise its power supply. Notwithstanding the close proximity of the nurse's residence, the existing power station is considered appropriate, as the costs to relocate it would outweigh the cost of an alternative use of the Clinic Nurse's residence, provided alternative accommodation can be provided for the Clinic Nurse, LP2 does not recommend its relocation.

3.2 Water Supply

Potable water for the community is obtained from 2 production bores that supply an overhead tank. The bores are located approximately 500m north west of the community on SL-lot 59 and are within the community area. The two production bores are 2/97 (solar bore) and 1/97 (diesel bore) and have a yield of 250 m³ per day and 300 m³ per day, respectively.

Bore 2/97 acts as the primary water supply bore. The abstracted groundwater is pumped through a sand filter at the borehead. Adjacent to this bore is Bore 1/97. This bore is powered by a diesel generator and acts as an emergency supply, whereby it is manually started by residents during times where there is insufficient sunlight to power borehole 2/97. Ground levels at these boreholes is approximately 518m AHD.

The bores are fenced to prevent damage and potential pollution from livestock or other sources.

A Drinking Water Source Protection Plan (DWSP) was prepared for Ngallagunda in 2017 by Global Groundwater. For further information regarding drinking water sources, please refer to the Ngallagunda Drinking Water Source Protection Plan, 2017.

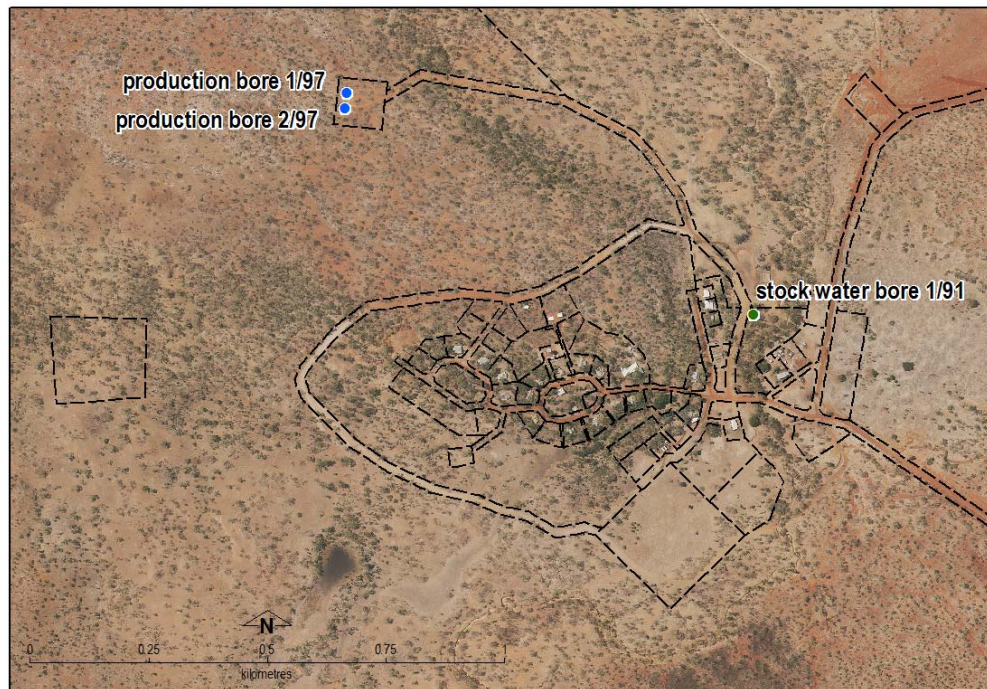


Figure 4 – Location of production water supply bores, DWSPP 2017



Figure 5 – Aerial image of the water bores and pump compound (October 2019)

Water from these bores is pumped via a polythene pipe to a water tank elevated 12m above ground and located approximately 40m north of the house on SL-lot 4. Located adjacent to the water tank is a chlorination system which chlorinates the water prior to it entering the water tank. There are 2 opposing pieces of data which quote the size of the overhead tank. A report by Kimberley Region Service Providers (KRSP) (2006/07) stated that it had a volume of 100 kl, however the Community Survey of Water Supply and Waste Water (2002, referenced from the Parsons Brinckerhoff 2009 report, Community Essential Services Information - Water) quoted a tank volume of 200 kl.

Ground level at the tank is approximately 504m which results in water pressure issues for residents located in higher elevated areas. Liaison with the occupant of SL-lot 25 confirmed this.



Figure 6 – Elevated water supply tank

The KRSP report (2006/07) noted that the water storage needed review due to safety concern about the elevated platform on which the tank sits. It is recommended that the tank elevation and platform condition be assessed in the short term.

There are also 2 additional boreholes (Bore 2/90 and Bore 1/91) located approximately 50m south of the cattle yard on SL-lot 108. Bore 2/90 is abandoned however Bore 1/91 pumps water to a water tank located by the cattle yard. This tank then supplies water to numerous troughs located within the cattle yard. At the time the site visit was undertaken in October 2009, this system did not seem to be in use as the water tank was empty. However, consultation with the community confirmed that the system worked and had the potential to pump water to the primary community water tank.



Figure 7 – Bore infrastructure near the stockyards

3.3 Wastewater

Sewage generated from the community is treated via individual septic tanks and associated leach drains. During the wet season, sewage disposal becomes an issue due to inundation of land surrounding septic tanks and leach drains. This is most common in residences located close to the two creek lines. Liaison with local residents indicated that the residences most affected are houses on SL-lots 7, 8, 9, 10, 11, 12, 16, 30, 32 and 34. This leads to health issues and contamination of the nearby creek lines. Houses on SL-lot 9 and 10 have been abandoned for this reason and the Community Projects Officer is seeking to have them condemned and demolished. Alternatively, adequate drainage and sewer provision could result in the dwellings being liveable.

This is considered the most pressing issue for Ngallagunda and LP2 recommends that this be addressed immediately.



Figure 8 – Septic tanks at the rear of SL-lot 10

It was not clear how often the septic tanks are emptied. While the community did not have equipment to empty the septic tanks themselves at the time of the visit, it is understood that KRSP has previously provided a trailer with pumping equipment such that septic tanks can be emptied on a regular basis, preferably prior to each wet season.

It was identified through background research that in August 2005 Kellogg Brown & Root Pty Ltd (sub-consultants to Parsons Brinckerhoff) devised a proposed sewer layout to service all buildings to the east of the school. The proposed layout results in sewage being conveyed gravitationally to a pump station located by SL-lot 7, where from here it is pumped in a north westerly direction to be treated. To date there has been no evidence of this proposed sewerage system being implemented.

As the issue with inundation of land surrounding septic tanks and leach drains extends to the office and the clinic nurse's residence, it is recommended that reticulated sewer be extended to these buildings. Due to the potential for increased use of the office complex as a shop for visitors, this is potentially critical in being able to meet capacity requirements for wastewater.

A revised sewer layout has been proposed to allow for adequate buffer (50m) between the proposed pump station on SL-lot 57 and current and future housing. A 500m buffer will be required for the proposed wastewater treatment ponds that could be located to the west of the community living area.

3.4 Rubbish Disposal

The old refuse disposal site to the north was closed in 2002. Following closure, rubbish was disposed of in a temporary site established at the western end of the settlement. This temporary site has now also been made redundant and rubbish is currently being disposed of in a disposal site approximately 1km to the north-east of the community (SL-lot 102). The site is accessed via a gravel track off the road between the community and the airstrip.



Figure 9 - Rubbish disposal site (October 2019)

The disposal site is fenced and contains 2 open trenches along the eastern and northern fence line. Local residents dispose of rubbish within (or close to the edge of) the trenches. The rubbish is periodically burnt and then covered in with soil by a back hoe. Rubbish disposed of at the tip contained typical household waste in addition to larger items such as fridges, barrels and building waste. There are also separate disposal areas for green waste, recycling, tyres, barrels and car batteries.

At the time of the site visit in October 2009, there was no evidence of green waste or recycling being disposed of separately, however barrels, tyres and car batteries were disposed of in designated areas. Household rubbish was being incinerated in drums outside each residence, reducing the amount of waste going into the rubbish tip.

While the rubbish disposal site currently appears well managed, the disposal site is within approximately 200 metres of Bryce Creek, with potential to cause contamination of this creek system which flows south through the community area. This is an issue that should be monitored in future to ensure the health of residents.

A number of abandoned cars and machinery were in a scrap yard area to the north of the community.

The unregulated rubbish tip is in a location that does not comply with government regulations or the WAPC Aboriginal Settlement Guideline 3: Layout Plan Exclusion Boundaries (2012).

The prescribed exclusion boundary for a rubbish tip is 2000 metres however, all housing and infrastructure is located within the 2000 metres exclusion boundary.

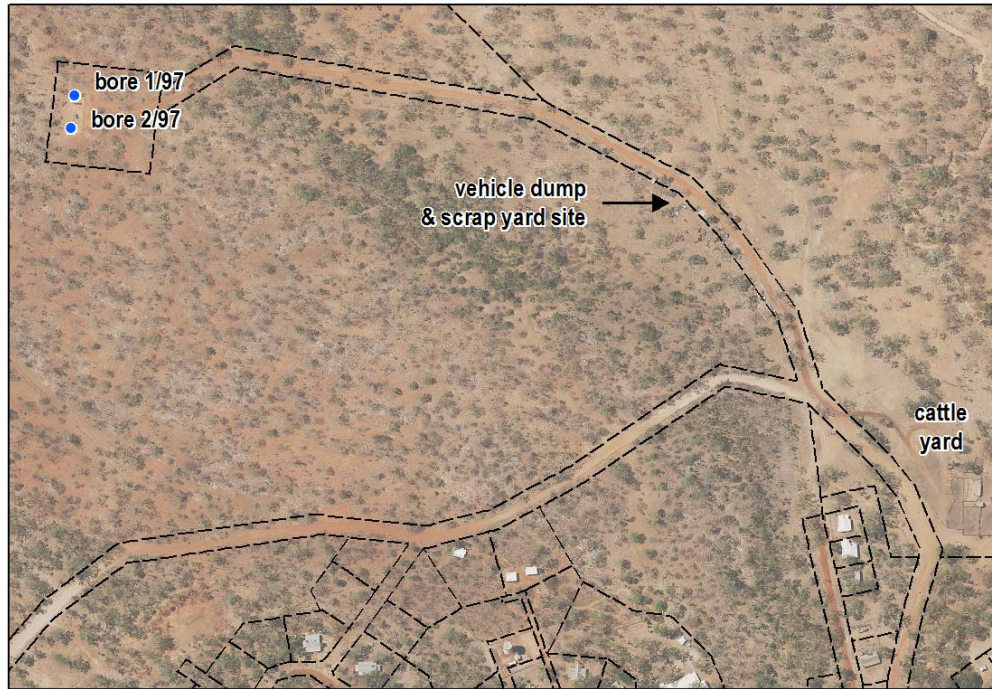


Figure 10 - Rubbish disposal site (October 2019)



Figure 11 – Vehicles dumped at the scrap yard site

3.5 Airstrip

The airstrip is located 1.2 km northeast of the community on SL-lot 101. It is an ex-army airstrip which is 1200m long with a 30m wide gravel sheeted landing strip and is suitable for daytime use only (no lighting), for aircraft under 5700kgs. The facility is used on a regular basis for the delivery of mail and by the Royal Flying Doctor Service. The Dodnun Community also utilises the facility.

Ngallagunda can access the airstrip almost all year round for RFDS evacuations, food supplies and essential services maintenance.

The access road is 100m long and 3.0m wide and also is subject to flooding during the wet season, often being impassable due to the land having clay rich soils and being low lying.

The current aircraft parking area is 30m x 40m and is also subject to flooding in the wet season. The aircraft parking area is to be relocated to an area to the south of the centre point of the airstrip along the alignment of an old airstrip runway.

3.6 Internal Road Layout

The settlement layout (SL) road into the community, known as Gibb River Station Road, is 2km long, of gravel construction of variable condition, crosses two watercourses and suffers severe erosion due in part to an adjacent drain along its length. There are no floodways provided in the living area for stormwater drainage purposes. A culvert was installed on Gibb River Station Road by the Centre for Appropriate Technology to convey flows along Bryce Creek under the road so during times of heavy rainfall the community would still be accessible.



Figure 12 – Gibb River Station Road culvert for Bryce Creek

The internal SL road network is comprised of some partially formed gravel roads and unformed tracks, none of which are named. All SL-lots are serviced by the existing SL road layout and proposed SL-lots can be accessed via a minor extension to the existing SL road network.

Dust from unsealed SL roads has been identified as an environmental issue however there does not appear to be justification for sealing of the SL roads at this stage. Localised flooding is an issue, with access between the community living area and the office becoming an issue in the wet season when the shallow creek separating these areas floods and residents must walk through knee deep water. A culvert or footbridge is desired by the community to assist access between these areas.

The current SL roads allow access to all areas of the community by cattle and horses. Fencing and stock gates are required to separate stock from the community living areas.

3.7 Access & Dedicated Roads

The community is located 2km off Derby-Gibb River Road, via the Gibb River Station Road, a dirt/gravel road which is formed two lanes wide and managed by Main Roads WA. Most tourists travel the Derby-Gibb River road in 4 wheel drives (often towing trailers or caravans), campervans, or large tour buses. High clearance robust vehicles (4 wheel drive) are recommended throughout.

Depending on the wet season the Derby-Gibb River road is officially opened sometime between mid April and mid May. Main Roads Western Australia only opens the road after they have inspected it. The rivers at the crossings must have dropped low enough that with caution vehicles can drive across safely. Any real problem areas like wash-outs are also quickly fixed with what is known as an 'opening grade'. Once Main Roads feel the road is reasonably safe to traverse they open the road; by this time the graders will be working to do a full grade of the road. Be aware that even though the road may be 'open', caution is still required prior to the full grade being completed.

3.8 Community and Social Services

The community is provided with a Projects Officer who lives permanently at the community through the Winun Ngari Aboriginal Corporation. The Projects Officer manages the Community Office and enterprise projects within the community.

The community contains a store, clinic, Wanalirri Catholic School (operated by the Catholic Education Office), transportable office, CDEP office / workshop, arts facility, child care building, 2 workshops (community / pastoral station) and a small centrally located playground/recreation area. The community relies heavily upon other agencies for its administrative support.

A possible future roadhouse on the Derby-Gibb River Road and Kalumburu Road intersection has been considered by the community as a tourist/business enterprise that would have significant economic benefits. A feasibility study was undertaken in 1997/98. Although this development proposal has not yet proceeded, it still remains a key objective of the community. The current aspirations of the community are for this service to be provided from the office, following rebuilding/reconfiguration of the existing office building.

Store

The current location of the store is in the central open space in the community area, at the western end of the community on SL-lot 14. It provides mostly staple items with both refrigerated and non-perishable foods, a small variety of fresh fruit and vegetables, as well as household and personal items.

Accounting services are provided by the Finance & Administration Manager for Winun Ngari Aboriginal Corporation.



Figure 13 – Ngallagunda Community Store

School

The Wanalirri Catholic School is a small primary facility operated by the Catholic Education Office providing education from kindergarten through to year 7, with one teacher. It has had a stable enrolment and continues to provide a basic level of education needed by the children of Gibb River Station. In the last term of 2009, enrolment was 10 – 14 children. Children at Dodnun (on Mt Elizabeth Station) and Mt Barnett used to be educated at Ngallagunda, however they now go to Mt Barnett School which provides primary and secondary education.

The school is located at the eastern end of the main residential area on SL-lot 1. It has adequate classroom space and resources, including internet access.

A playgroup building is located on SL-lot 40 near the school (doubling as an arts and craft shed) however its use has been restricted due to a lack of personnel and enrolment numbers. Children pursuing education beyond year 7 go to boarding school. Technical and Further Education (TAFE) is often the preferred option if students leave the community.

Office

This is a two-room building near the entry to the residential living area on SL-lot 14 which is small and compact but effective for the current requirements of the community. The building is of a transportable type.

Clinic

The Ngallagunda Community Clinic is part of the central community building on SL-lot 40 which also houses the store and is managed by the Jurrugk Health Service provided by the Kimberley Aboriginal Medical Services Council. Jurrugk means 'coming together', referring to the collection of remote Aboriginal communities along the Gibb River Rd who are represented by the Jurrugk Aboriginal Health Service – Ngallagunda (Gibb River Station), Kupungarri (Mt Barnett), Imintji, Dodnun, Kandiwal, Yulumbu and Teralantji.

The Jurrugk elected governing council delegates the day-to-day management of the health service to the Derby Aboriginal Health Service (DAHS), whose Chief Executive Officer (CEO) is also the CEO for the Jurrugk Aboriginal Health Service. Jurrugk employs two registered nurses, resident in the two communities of Ngallagunda and Kupungarri, and traveling each week to provide services at Imintji and Dodnun/Mt Elizabeth. DAHS also work in conjunction with the Royal Flying Doctor Service (RFDS) to provide a monthly doctor visit to each of the Jurrugk communities.

DAHS and Jurrugk work together to raise the profile of health as a profession, encouraging local Aboriginal people to take up employment in the health service and offering support for people along the Gibb River Rd to pursue training in a health-related field.

A number of specialists including an occupational therapist (Allied Health), mental health, domestic violence aid workers and an optometrist also utilise the clinic periodically.

The clinic nurse is accommodated opposite the office building, on SL-lot 16. Given the location of the nurse's house at the entry to the community, it is noted that, if the store becomes busier with visitors and tourists, the staff would wish to move, possibly closer to the teacher's quarters, and the nurse's house could be converted for use as a reception / office.

Workshop

The workshop on SL-lot 48 is the hub of station activities and community activities surrounding the Community Development Employment Projects (CDEP). It was in use with men undertaking mechanical work on a vehicle at the time of a community visit. The workshop is located north east of the office, and is appropriately near the stock yards, fuel tanks and other appropriate facilities.



Figure 14 – Ngallagunda Community Workshop

Recreation Centre

There is a powered art shed which was constructed in the central living area park (SL-lot 40) for the opportunity of the local women to advance their arts and crafts skills. It also has the potential to be used as a playgroup. This facility has not fulfilled its designated use, and is not used. It was locked and inaccessible at the time of the community visits.



Figure 15 – Ngallagunda Community Recreation Centre

Oval & Recreation

An oval has not been developed at this stage, however there is a basketball court in the recreation precinct on SL-lot 45, as well as a playground located in the central park area. The community representative organisation has requested an oval in the future. The community does not expect this to be a full Australian rules size oval, but suitable for kicking footballs and training.

3.9 Stockyards

Stockyards, which are in use as part of the pastoral operation, are located to the north east of the community. Whilst they are outside of the main living area, they are only 100m from the teachers' quarters on SL-lot 33 and 34.

At initial meetings with the community dust and odour from the stockyards was raised as an issue and relocation of the stockyards was discussed. At subsequent visits, community members advised that they considered that dust and odour could be managed by watering and stock management measures and therefore they wish for the stockyards to remain in their current location.

4 HOUSING

4.1 Residential Areas

The shallow watercourse to the west of the office building forms the boundary between the services and worker housing and the community living area. Except for single men living in the quarters near the office, all community residents live in a well-defined residential area with housing in a ring around two communal open space areas.



Figure 16 – Central residential area at Ngallagunda (SL-lots 5 & 6)

4.2 Number & Quality of Dwellings

The total number of dwellings in 2010 was 20, including:

- 12 habitable community houses;
- 2 existing houses deemed uninhabitable or in need of major works;
- 1 single men's quarters;
- 4 dwellings for workers/staff and;
- 1 caravan/portable used by teaching staff.

Three serviced housing SL-lots were vacant within the main settlement area.

All dwellings are constructed from timber or steel frame with steel cladding, with wide verandahs and the use of timber lattice for external screening. There is no distinct difference in construction and material based on age of dwellings, except that more recently constructed dwellings have a two-tone colour scheme in the external cladding.



Figure 17 – Examples of dwellings and yards (SL-lots 25 and 27)

Quality of dwellings

At the time of consultation in 2010, Emama Gnuda Aboriginal Corporation had been engaged since 2006 to undertake property management and maintenance and respond to requests from the community as required. The former Department of Housing had not been able to provide any additional information or inspection reports to determine the quality of the dwellings. However the Department indicated that a few houses were listed as vacant for “administrative reasons”. The community had not advised whether there were any outstanding repair or maintenance issues.

The vacant houses in 2010 were those those on SL-lots 9, 10 and 11. Structurally the houses were adequate. Flooding/inundation was identified as an issue along with health issues associated with septic tanks when they overflowed. Shire staff were to inspect the dwellings at that time and decide if the houses should be condemned. The former Department of Housing was to then decide whether to relocate/refurbish the houses and, allocate the necessary funds.

4.3 Future Residential Development

Future work was dependent upon security of the housing asset, which required the community to sign a 40 year agreement for housing management to be undertaken by the then Department of Housing, or its service provider. LP2 provided for three new housing SL-lots, in addition to the three existing vacant housing SL-lots. Future residential expansion identified an additional four housing SL-lots as a second stage development in years 10 – 15.

This was thought to adequately meet demand for additional housing, assuming a 5% population growth from 2009-2023.

5 CONSTRAINTS AND LIMITATIONS

5.1 Flood Hazard

The community is prone to flooding due to a concentrated wet season where approximately 866mm of rainfall occurs between the months of November and March. There are 2 watercourses that transect the community. Bryce Creek is an intermittent creek located towards the eastern end of the community where it flows in a north to south direction. Previously, during times of heavy rainfall, the access road to the community was impassable where Bryce Creek crossed the access way. However in 2005 a culvert was established to convey flows under the road so during times of heavy rainfall the community would still be accessible. Liaison with locals indicated that water flowing through the creek does not result in extensive inundation of the nearby infrastructure. This is perhaps due to the depth of the creek allowing fast flow of water through the settlement area.

A second unnamed localised intermittent creek is located at the south-western area of the community. The source of this creek appears to be springs. One spring is located between the office and school, with a further 3 springs located west of the nurse's house. Although no water was found to be flowing through this creek during a site visit in October 2009, surface water was present in each of the 3 springs to the west of the nurse's house. This shallow catchment also directs surface water run-off from the rock outcrops to the north and west of the settlement area. During times of heavy rainfall runoff from upstream areas in the catchment is conveyed through this creek, however consultation with the community indicated that this creek typically causes the surrounding areas to be inundated, most notably directly south of houses 7 to 12. The "wet" area has been identified in the 'Kimberley Communities - Flood Study' (DWER 2018) and is shown on the layout plan.

The rocky outcrop to the west of the teacher's house causes land at the bottom of the outcrop to become inundated and boggy. Run-off from the outcrop located at the north-western boundary of the community results in surface water flowing south through the clinic and surrounding houses. This results in erosion of unvegetated areas and areas surrounding low-lying houses becoming water logged.

All construction and developer proponents to refer to the 2018 'Kimberley Communities - Flood Study' report for the Ngallagunda community and the updated map-set.

5.2 Drainage

Areas that are typically inundated during the wet season have been identified and it is recommended that development does not occur in these flood prone areas. It was also noted that houses on SL-lots 7 to 12 are subject to stormwater inundation from surface stormwater flowing from the areas to the north. It is recommended that the landscape around these houses be graded to ensure stormwater is diverted around the houses towards the creek located to the south of the houses.

5.3 Exclusion Boundaries

The objectives behind the use of exclusion boundaries within remote settlements, as described within SPP 3.2 – Aboriginal Settlements (Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries) are to:

- Improve the health and amenity of people living, visiting and working on Aboriginal settlements by promoting the separation of existing and proposed incompatible land use activities;
- Establish a consistent, appropriate and effective approach to the application of land use separation on layout plans.

The map-set that forms a part of this Layout Plan includes exclusion boundaries in accordance with Guideline 3.

In many instances, there are incompatible uses with the prescribed exclusion boundaries. This is an indicator that existing infrastructure is poorly located and, in time, should be relocated to more suitable locations to ensure that adequate separation distances are maintained between incompatible uses.

6 PLANNING FRAMEWORK

6.1 State Planning Policies

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

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

The following SPPs were given due regard in the preparation of LP No. 2:

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

6.2 Land Use Buffers for Aboriginal Communities

In 2007, consultants Arup prepared the draft 'Land Use Buffers for Aboriginal Communities in Western Australia' report on behalf of the former Department for Planning & Infrastructure (DPI). The report defines minimum separation distance buffers specifically suited to the range, scale and type of infrastructure typical of remote Aboriginal communities. All buffers specified in this LP are based on that report. This document has now been superseded by the Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries.

6.3 Shire of Wyndham-East Kimberley

Local Planning Scheme No. 9

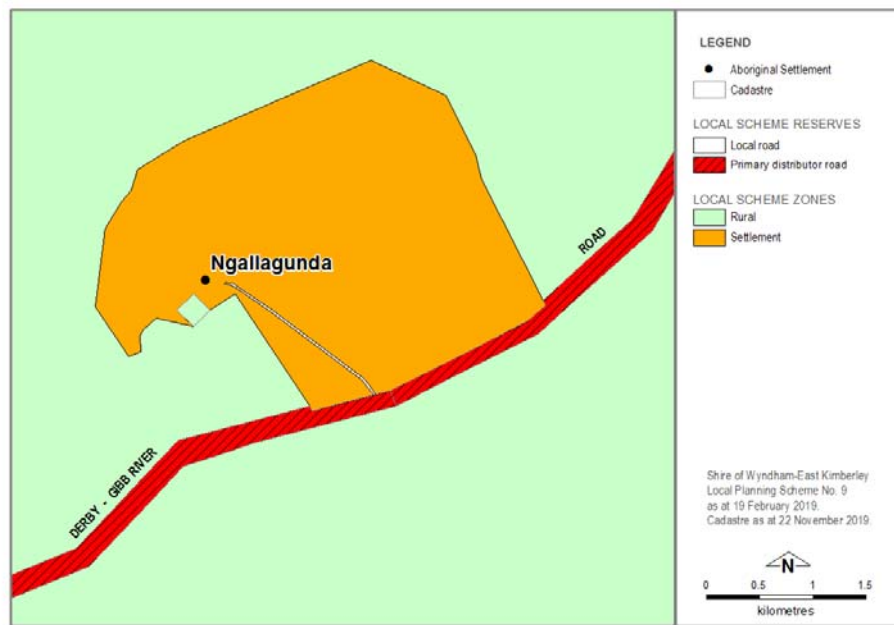
The Shire of Wyndham-East Kimberley Local Planning Scheme No. 9 (LPS 9) was gazetted on 19 February 2019.

Ngallagunda 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 18).

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 18 - Land classification under SWEK LPS 9 - Ngallagunda
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.

7 ENDORSEMENTS

Ngallagunda Aboriginal Corporation Endorsement

Ngallagunda Community Layout Plan No. 2

Ngallagunda Aboriginal Corporation
Loc 35 Gibb River Station Rd
Leopold WA 6725

The Ngallagunda Aboriginal Corporation (representing the community) hereby adopts the **Ngallagunda Community Layout Plan No. 2 (2010)** as a guide for future development within its boundaries.

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

The SEVENTH Day of July 2010

Adopted by the Ngallagunda Aboriginal Community:

ALFIE WHITE

MARCIA OZIES

Alfie White

M Ozies

Councillor
[Please print and sign name]

Councillor

Shaaron Shaw

Quentin Burgu

Councillor

Councillor

Councillor

Councillor

Ngallagunda Community Layout Plan No. 2

PO Box 821
KUNUNURRA
WA 6743

The Wanjina-Wunggurr Native Title Aboriginal Corporation (representing the traditional owners, the Wanjina-Wunggurr-Wilinggin People) hereby adopts the **Ngallagunda Community Layout Plan No. 2 (2010)** as a guide for future development within its boundaries.

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

TheDay of2010

Adopted by the Wanjina-Wunggurr Native Title Aboriginal Corporation:

Chairperson
[Please print and sign name]

Director
[Please print and sign name]

Director

Director

Director

Director

Shire ~~of~~ Wyndham Kimberley Endorsement

Ngallagunda Community Layout Plan No. 2

PO Box 614
Kununurra WA

The ~~Shire~~ of Wyndham-East Kimberley hereby adopts the **Ngallagunda Community Layout Plan No. 2 (2010)** as a basis for future growth and development with Ngallagunda community.

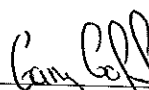
The 17 Day of August 2010

Endorsed by the Shire of Wyndham – East Kimberley:



FREDERIC MILLS

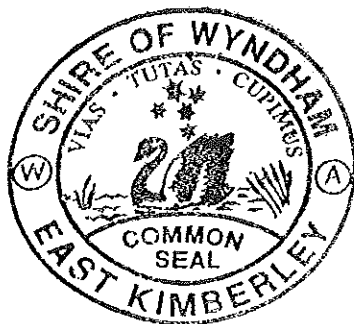
Shire President
(Please print and sign name)



GARY GAFFNEY

CEO
(Please print and sign name)

Council
Seal



Western Australian Planning Commission Endorsement



Ngallagunda Community Layout Plan No. 2

469 Wellington Street
Perth WA 6000

The Western Australian Planning Commission hereby endorses the **Ngallagunda Community Layout Plan No. 2 (2010)** as a guide for development to ensure proper and orderly planning within the community area

TheTH14.....Day ofDecember..... 2010

Signed for and on behalf of the Western Australian Planning Commission

A handwritten signature in black ink, appearing to be "M. J. A.", written over a horizontal line.

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

A handwritten signature in black ink, appearing to be "U. Evans", written over a horizontal line.

Witness

17/12/10 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, and non-government organisations.

Formal and informal discussion, meetings and correspondence held during this period are listed below and detailed meeting records have been maintained.

Organisation	Date
Ngallagunda Community Incorporated / Ngallagunda Community Projects Officer (Winun Ngari Aboriginal Corporation)	26 August 2009 30 September 2009 2 October 2009 13 October 2009 21 December 2009 22 March 2010
Kimberley Land Council	4 December 2009
Wanjina-Wunggurr (Native Title) Aboriginal Corporation	8 December 2009
Australian Bureau of Statistics	16 December 2009
State Land Services, Department of Regional Development & Lands	9 October 2009 12 October 2009 14 December 2009 11 May 2010
Shire of Wyndham-East Kimberley	17 August 2009 30 September 2009
Department of Housing	15 January 2010 25 March 2010
Emama Gnuda	15 January 2010 23 March 2010
Parsons Brinkerhoff (Remote Area Essential Services Program)	22 March 2010
Centre for Appropriate Technology	10 February 2010
Kimberley Regional Service Providers	22 March 2010
Catholic Education Office	13 October 2009
Jurrugk Aboriginal Health Service	13 October 2009
Heritage Council of WA	4 May 2010

REFERENCES

- Australian Bureau of Statistics (ABS) 2001 Census Community Profile Series: Ngallagunda (Indigenous Location). Available at: www.abs.gov.au
- Australian Bureau of Statistics (ABS) 2006 Census Community Profile Series: Ngallagunda (Indigenous Location). Available at: www.abs.gov.au
- Department of Indigenous Affairs (DIA) 2004 Environmental Health Needs Survey of Indigenous Communities in Western Australia. Government of Western Australia.
- Department of Indigenous Affairs (DIA) 2008 Environmental Health Needs Survey of Indigenous Communities in Western Australia. Government of Western Australia.
- Department of Water and Environmental Regulation (DWER) 2018 Kimberley Communities - Flood Study Ngallagunda community – Bryce Creek Catchment, Government of Western Australia
- Global Groundwater 2017 Ngallagunda Drinking Water Source Protection Plan, Department of Planning
- Jebb, M. 2002 Blood, Sweat and Welfare: A History of White Bosses and Aboriginal Pastoral Workers. UWA Press: Nedlands.
- 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.
- Neowarra v State of Western Australia [2003] FCA 1402. Federal Court of Australia
- Neowarra v State of Western Australia [2004] FCA 1092. Federal Court of Australia
- Parsons Brinckerhoff 2009 Community Essential Services Information - Water
- Shared Land Information Platform (SLIP) – Dataset DPLH – 002 (ABS & Dept. of Housing)
<https://catalogue.data.wa.gov.au/dataset/aboriginal-communities-and-town-reserves>. Government of Western Australia
- Taylor, J. 2006 Population and Diversity: Policy Implications of Emerging Indigenous Demographic Trends. CAEPR discussion paper No. 283/2006. ANU: Canberra.
- Veitch, B. 1996a Evidence for mid-Holocene change in the Mitchell Plateau, northwest Kimberley, Western Australia. In P. Veth and P. Hiscock (eds) Archaeology of Northern Australia, pp. 66-89. St Lucia: Anthropology Museum, University of Queensland.
- Veitch, B 1999b What Happened in the Mid Holocene?: Archaeological Evidence for Change from the Mitchell Plateau, Northwest Kimberley, Western Australia. Unpublished PhD thesis, Centre for Archaeology, Department of Anthropology, University of Western Australia, Perth.
- WAPC, 2019 Shire of Wyndham-East Kimberley Local Planning Strategy, Government of Western Australia

AMENDMENTS

Ngallagunda Layout Plan 2

Amendment 1

Plan Date	: 7 July 2010	WAPC	: 14 December 2010
Proponent	: Department of Planning	Endorsed Requires Endorsement	: WAPC only – minor amendment

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 Ngallagunda Layout Plan 2.

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 Ngallagunda Layout Plan 2.

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

Approved

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

Western Australian Planning Commission


please sign and print name

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

RESOLVED & RECORDED IN MINUTES
THE STATUTORY PLANNING
COMMITTEE MEETING
13 NOV 2012

Date 15/11/12

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.

Ngallagunda Layout Plan 2

Proposed Amendment 2

Proponent	: Wungurr Rangers
Date	: 24 July 2013

Reason for the Amendment

Development of office and accommodation for the Wungurr Rangers.

Subject Land	Changes required to CLP
1. North of SL-lot 38 and including part SL-lots 21, 29 and 22	Show the existing track to the north of SL-lot 38 as a SL-road (to be shown as Seventh Street). Add two new SL-lots (to be shown as 109 and 110) and re-arrange SL-lots 21, 22 and 29 to match.

Endorsements:

Ngallagunda Aboriginal Corporation please sign and print name	<i>Myrona Borge</i> Myrona Borge (CEO)	Date: 20.8.13
(insert traditional owner representative organisation name) please sign and print name	Willingin Aboriginal Corporation - see attached letter	Date: 21/08/13.
Shire of Wyndham please sign and print name	<i>Kimberley</i> JENNIFER NINYETTE SENIOR PLANNING OFFICER	Date: 12/11/13
Western Australian Planning Commission please sign and print name	<i>[Signature]</i> Ashley Randell Planning Manager, Aboriginal Communities Regional Planning & Strategy PN: 15151.1	Date: 22/10/2013

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.

Ngallagunda Layout Plan 2

Amendment 3

Plan Date	: 7 July 2010	WAPC	: 14 December 2010
Proponent	: Department of Planning	Endorsed Requires Endorsement	: WAPC only – minor amendment

Reason for the Amendment

The Willingin Aboriginal Corporation, representing the Wanjina-Wungurr Native Title Determination holders proposes to develop a house and rangers depot on SL-lots 109 and 110. This is supported by the Ngallagunda Aboriginal Corporation. Amendment 3 to Layout Plan 2 established SL-lots 109 and 110 and was endorsed by all relevant parties.


This amendment is to establish an SL-lot to facilitate the development of utilities servicing those SL-lots in an orderly and efficient manner.

Approved

This is a minor amendment as outlined under provision of Planning Bulletin 108/2013, as such the endorsement of the WAPC only is required.

Western Australian Planning Commission

please sign and print name


Ashley Randell
Planning Manager, Aboriginal Communities
Regional Planning & Strategy
PN: 15151.1

27/05/2014.
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.

Ngallagunda Layout Plan No. 2

Amendment No. 4

Proponent : Department of Planning

Date : 03 March 2017

Reason for the Amendment

The Department of Planning proposes to make changes to the Ngallagunda Layout Plan 2 to include data from the recent Drinking Water Source Protection Plan (March 2017) undertaken to show a Priority 1 Drinking Water Source Protection Area.

Land Identification		Amendment description
1.	SL-lots 103, 104, 106, and the area classified 'Open Space' to the north and east of SL-lot 59 and Lot 17 Pastoral Lease 3114/997	<p>Include the Priority 1 Drinking Water Source Protection Area in Layout Plan 1.</p> <p>Change the land use from 'Open Space' and 'Rural' to 'Drinking Water Source Protection Area' as per the Priority 1 area documents in the Ngallagunda Water Source Protection Plan (March 2017) for a portion of Lot 17 Pastoral Lease 3114/997 within the current recommended settlement zone.</p>

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

13/03/2017 date

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, Department of Environmental Regulation, Aboriginal Cultural Materials Committee, Environmental Protection Authority and Department of Water.

Ngallagunda Layout Plan No. 2

Amendment No. 5

Proponent : Department of Planning, Lands and Heritage

Date : 3 May 2018

Reason for the Amendment

In February 2018 the Department of Water and Environmental Regulation (DWER) completed the 'Kimberley Communities – Flood Study' report for the Ngallagunda community on behalf of the Department of Planning, Lands and Heritage (DPLH). This provided DPLH with flood mapping and information on flood behaviour to guide land use planning, emergency management and assessment of building and development in flood-prone areas.

The flood study has identified changes to LP2 to reflect various Annual Exceedance Probability (AEP) flood extents and other mitigation measures. This includes replacing an amount of 'open space' land use with 'waterway', realigning sections of the existing road network, and realigning SL-lot boundaries. The general intent is to avoid future development anywhere that is at significant risk of flooding and identify areas which are more appropriate for community expansion into the future.

Land Identification		Amendment description
1.	SL-lot 50	Contract the current SL-lot in size, so that it is less than the 0.5 metre flood height from the 1% AEP Flood Depth. Land higher than 0.5 metre flood height to become part of SL-lot 108.
2.	SL-lot 107	Change land use from "open space" to "waterway".
3.	SL-lot 108	Change land use from "open space" to "waterway".
4.	SL-lot 31	Change land use from "residential" to "waterway". Amalgamate with SL-lot 107.
5.	SL-lots 47,48,106,108	Create road reserve extension of "Seventh Street", based on existing road shown 2017 air photo, north of Ngallagunda Road.
6.	Second Street north of Seventh Street	Realign road reserve based on existing road to bores on SL-lot 59, as shown 2017 air photo and rename as "Eighth Street".
7.	Second Street north of Ngallagunda Road	Discontinue Second Street after SL-lot 34.
8.	Open Space south of Ngallagunda Road along Bryce Creek	Change land use from "open space" to "waterway".
9.	SL-lot 106	Change land use on SL-lot 106 from "rural" to "waterway" for land higher than the 0.5 metre flood height from the 1% AEP Flood Depth.
10.	Open Space south of Ngallagunda Road and north of Seventh Road	Change land use from "open space" to "waterway" for land higher than the 0.5 metre flood height from the 1% AEP Flood Depth.

Ngallagunda Layout Plan No. 2

Amendment No. 5

11.	Open Space north of Ngallagunda Road and south of Seventh Road	Change land use from "open space" to "waterway" for land higher than the 0.5 metre flood height from the 1% AEP Flood Depth.
12.	Open Space south of Seventh Road and SL-lot 100	Change land use from "open space" to "waterway" for land higher than the 0.5 metre flood height from the 1% AEP Flood Depth.
13.	All	<p>Amend Layout Plan Report to include additional detail in Section 2.8 'Flooding and Drainage'.</p> <p>Note: All construction and developer proponents to refer to the 'Kimberley Communities – Flood Study 2018'*</p>

*A copy of the flood study is to be obtained from DPLH prior to any endorsed construction/development.

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>	 Ashley Randell Director, Regional Planning Policy Regional Planning Determination 15151 15/05/2018 date
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Other Information:

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

Reason for the Amendment

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

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

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

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

Endorsement:

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

Determined on behalf of the Western Australian Planning Commission in accordance with the <i>Instrument of Delegation – Delegation to officers of certain powers and functions of the Western Australian Planning Commission.</i>	 17/01/2020 Ashley Randell Determination of Regional Planning Policy Director, Regional Planning PN: 15151
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Other Information:

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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.