

Kandiwal

Layout Plan 1

Background Report

June 2010

Date endorsed by WAPC



Amendments

Amendment 1 - October 2012

Amendment 2 - August 2018

Amendment 3 - January 2020



Department of Planning,
Lands and Heritage



Western
Australian
Planning
Commission

KANDIWAL LAYOUT PLAN 1

This background report was prepared during the period 2007 to 2009 by the Mitchell Plateau Association in collaboration with the Kandiwal Aboriginal Corporation (KAC).

Layout Plan 1 was endorsed by KAC on 28 April 2010 and the Shire of Wyndham - East Kimberley on 18 May 2010. The Western Australian Planning Commission (WAPC) endorsed LP1 on 8 June 2012.

The WAPC endorsed amendment 1 in October 2012 and amendment 2 in August 2018 to incorporate a number of spatial and administrative changes to the map-set, no changes were made to the background report. The endorsed amendments are listed in part 7 of this report.

In January 2020 the background report was updated as a part of Amendment 3. The Amendment 3 background report update sought to keep all relevant information, while removing and replacing out-of-date references and data.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.

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Community Representative Organisations

Resident community representative organisation	: Kandiwal (Aboriginal Corporation)
Traditional Owners representative organisation	: Wanjina-Wunggurr (Native Title) Aboriginal Corporation RNTBC
Related organisations	: Kandiwal Nominees Aboriginal Corporation : 'Wirraway Tours': Chris Brown c/o KAC, Kandiwal Mitchell Plateau Association

Acronyms

AHA	: Aboriginal Heritage Act (WA) 1972
ALT	: Aboriginal Lands Trust
CAT	: Kimberley Centre of Appropriate Technologies
CR	: Crown Reserve
DAA	: Department of Aboriginal Affairs
DET	: Department of Education & Training
DoC	: Department of Communities (Housing)
DPLH	: Department of Planning, Lands and Heritage
EHNS	: Environmental Health Needs Survey
ILUA	: Indigenous Land Use Agreement (under the Native Title Act 1993)
KAC	: Kandiwal (Aboriginal Corporation)
KNAC	: Kandiwal Nominees Aboriginal Corporation
KRSP	: Kimberley Regional Service Providers
LP	: Layout Plan
MPA	: Mitchell Plateau Association
NNTT	: National Native Title Tribunal
NTA	: Native Title Act (Commonwealth) 1993
NTRB	: Native Title Representative Body
PBC	: Prescribed Body Corporate (under the NTA, representing native title holders)
RAESP	: Remote Area Essential Services Program
RIHS	: Regional Indigenous Health Service
UCL	: Unallocated Crown Land
WAPC	: Western Australia Planning Commission
WGAC	: Wunambal Gaambera Aboriginal Corporation

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 Kandiwal Layout Plan No. 1 was prepared over a two-year period between 2007 and 2009. The tables below summarise the main issues concerning the planning, development and provision of services within Kandiwal and are covered in more detail in the body of this report.

Table 1 – Population Summary

Existing Population	33
Aspirational Population	170
Design Population	170

Table 2 - Place Characterisation Indicators

Indicator	Community Characteristics
Drinking water	One bore at community, tested regularly by KRSP. Water quality considered to be within Guidelines. Quantity of water unknown.
Electricity	Operated by the community with limited KRSP support.
Flood	Community area located on land where flood is not expected to risk safety or infrastructure. Seasonal run-off experienced, but flooding not considered to be an issue. Stormwater bund to north of community.
Land tenure	Settlement and infrastructure are located on two titles, 200 ha Crown reserve 42514 under management order to the ALT, and part of UCL land ID 3093188. The reserve is leased to KNAC of which 3.781 ha is subleased to Kimberley Wilderness Adventures P/L, and a further 4.99 ha is subleased to Outback Spirit Tours P/L.
Wastewater	Existing buildings use a local septic style system.
Emergency assistance	Nearest police and medical assistance at Kununurra and Derby, a 9-12 hour drive. Seasonal road access only. Approximately 2-hour flight time.
Education	No school at community, but School of the Air (SOTA) available.
Health	Nearest health clinic located at Kalumburu, 190kms – 4-5 hour drive, only seasonally accessible. Monthly outreach RFDS service to community.
Food	Fish and meat food sources obtained locally, proximate to community. Food supplies flown in weekly.
Transport	Unregistered (CASA Not listed) bush airstrip year-round access proximate to settlement. Road access is unsealed and seasonal April to December.
Waste services	The settlement has a weekly refuse collection and community clean-up conducted by KAC.
Employment & enterprise	Incorporated community has potential enterprises with tourism and land-management ventures.
Governance	KAC is a registered corporation under the CATSI Act. The Community has a designated office with phone and fax and is supported by a coordinator.
Aboriginal heritage	The community is located within the determination area of the Unguu Part A WAD6033/1999 claim.

LP 1 plans for future expansion of the community and formalises existing infrastructure and land-uses and provides a future lot layout and road design.

DEVELOPMENT PRIORITIES

The following initiatives were developed by the community in 2007 -2009 to implement LP No. 1. The timeframes below relate to the endorsement of LP1 by Kandiwal Aboriginal Corporation in April 2010.

Within the next year:

1. Build education and training centre on SL-lot S1 with two teacher houses on SL-lots 18 & 19
2. Build six houses and indigenous education worker accommodation
3. Install Broadband communications system
4. Replace the existing power supply system
5. Construct horticultural enclosures south of SL-lot 6 and east of SL-lot 40
6. Build a multi-purpose cool room on SI-Lot 43
7. Erect workshop on SL-lot 53
8. Define & grade internal road network
9. Identify the location of the new community tip approximately 4 kms SE of the community, subject to appropriate land tenure

Within the next 5 years:

1. Construct health clinic
2. Construct new administration building
3. Undertake public drinking water source protection assessment
4. Construct store
5. Construct cultural and tour centre
6. Construct 15 houses
7. Construct additional teacher housing
8. Expand food production enclosures
9. Construct sports facilities & oval

Within the next 10 years:

1. Expand the education & training centre and teacher accommodation
2. Undertake review of LP No. 1 and population forecast
3. Construct additional 15 houses, subject to population demand
4. Construct environmental sewer plant, subject to population growth

Within the next 15 years:

1. Construct additional housing as required

Implementing the Layout Plan

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

The future growth of Kandiwal 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 Kandiwal 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

Kandiwal is located in the Shire of Wyndham-East Kimberley approximately 245 kilometres from the Gibb River Road. It is also 190 kilometres south of Kalumburu. The main portion of the community is set in the Camp Creek Valley some 30 kilometres from the coast providing good cyclone protection.

The community is a growing tourism centre located in the ancient *Unguu* wilderness consisting of savannah, palm forests on a plateau ranging down to the sea. *Ngauwudu* is the region between the Mitchell and Lawley Rivers part of which is the Kandiwal Mob country. *Ngauwudu* has year-round water in the Camp Creek system fed by the airstrip swamp, passing beside Kandiwal settlement, running off the plateau into the Mitchell River leading to the Mitchell Falls. Soils are old rock weathered material and generally not suitable for agriculture. The underlying rock is variable and fractured providing many avenues for the summer rains to percolate into the aquifers.

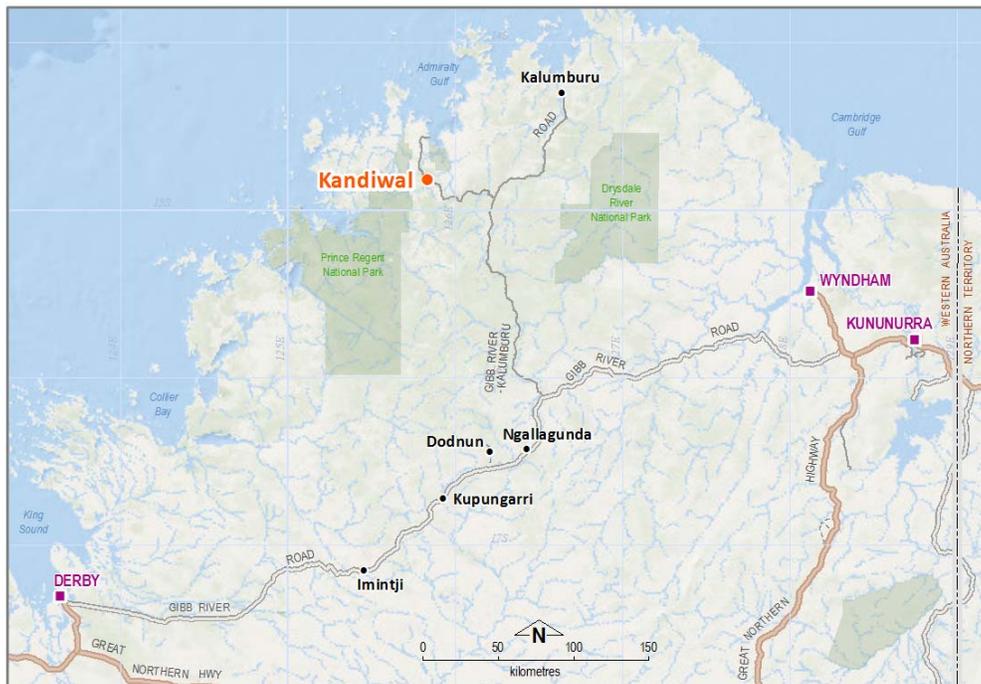


Figure 1 – Regional context of Kandiwal

1.2 Climate

The climate at Kandiwal is moderated due to its location 30 kilometres inland and at an elevation of 275 metres. It has a mean monthly maximum temperature of 36 degrees and a minimum of 9.7 degrees. Kandiwal has an annual mean average of 116 clear days and 94 cloudy days. It has a rain fall annual average of 1548mm which falls primarily in the December - March period.

The strongest winds occur in January from the west with a mean monthly maximum of 40km/h. The direction of the prevailing wind changes throughout the course of the year, depending on the season. In the wet season, the prevailing wind is westerly and in the dry season, easterly.

It is an area affected by cyclones, with five cyclones passing by in living memory of local residents.

1.3 History

The history recounted here was put forward by community members between 2007 and 2009. The Kandiwal community are the Wunambal Ngauwudu people, whose old people first saw the white man in the 1920s. Relocation from country, by coercion and force, began in the 1930s. The majority of the Wunambal people were coerced west to Kunmunya mission during the 1940s and 50s, by issuing of rations to encourage change in cultural attitudes and practices. Eventually the Kunmunya mission was closed due to funding constraints and the majority of those living there were again moved further south to Wotjulam camp, closer to Derby, for ease of government access.

Wotjulam was later closed and people were made to relocate again to Mowanjum, just outside Derby (see Jebb 2008 for a written history by the Mowanjum people).

The Ngauwudu mob began trying to return to their traditional country in the 1950s. In the mid-1960s, Conzinc Riotinto Australia constructed an exploration camp for several years on the present site of Kandiwal. When the miners left they auctioned everything but the concrete foundations. The Ngauwudu mob took over the Kandiwal site to create the Kandiwal community of today. The steel sheds and housing were built in the 1990s.

The three Ngauwudu Reserve Leases were vested to Kandiwal Aboriginal Corporation (KAC) in 1987 for 99 years. KAC was the first independent Indigenous corporation in the northern Kimberley.

1.4 Previous Layout Plan

There is no previous Layout Plan for Kandiwal.

The first Kandiwal plans were a survey and lot design in 1997 prepared by Troppo Architects P/L in 1997. This was used as the basis for providing a building licence by the Shire of Wyndham - East Kimberley Building Surveyor.

The next plan was created for the former Department of Housing by Sinclair Knight & Merz in Association with Monsoon Architects & Planners in 2004 using the same base survey as 1997, for the purpose of constructing two houses and associated infrastructure.

Neither surveys were formally endorsed by the community, Shire, or Western Australian Planning Commission.

The first two plans did not address land-use requirements or community aspirations for education and health facilities and did not incorporate community development or the KAC Ngauwudu management and tourism development plans that had been prepared in 2000 (WGAC 2000). The only community input was to the houses.

LP No. 1 is primarily aimed at addressing the current shortfall in education, training, health and infrastructure as well as laying the foundation for economic development.

2 COMMUNITY PROFILE

2.1 Population

Table 3 – Population

Existing Population	:	33
Aspirational Population	:	170
Design Population	:	170

Existing Population

Estimating and predicting populations in Kandiwal 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).

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

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

The population estimates in Table 4 are sourced from the Environmental Health Needs Survey (EHNS) undertaken by the former Department of Aboriginal Affairs in 1997, 2004 and 2008. These are:

Table 4 - Environmental Health Needs Survey Population estimate

Population of Kandiwal	1997 EHNS	2004 EHNS	2008 ENHS
Total persons	10	40	25

Since 2005, Kandiwal has had residents living full-time at the community. The number of residents at any one time varies depending on road access, the activities or meetings that are occurring, and the state of the road. Official figures for Kandiwal are dependent on external administrative support being available to fill out ABS or Health forms and as a result these figures can be unreliable.

The community undertook its own survey of the Wunambal people to provide a base for the creation of the layout plan.

Kandiwal estimated its 2009 population as numbering 33, of which 18 are children, 7 adult females and 8 adult males.

Based on the available data, the population of Kandiwal was estimated to be 33 people as at 2009.

Aspirational Population

Aspirational population refers to the resident community's expected future population in the settlement within the next 10-15 years.

Migration to Kandiwal can be expected due to affiliations with family members living in other settlements in the region, including Mowanjum, Nulungundah, Fitzroy Crossing, One Arm Point, Broome and Kalumburu migrating back to Kandiwal to a better environment for educating their children, to move them away from the poor social conditions of regional centres and to pursue their legitimate development opportunities on Ngauwudu to create a future for their children.

In 2009, the community anticipated the population to grow to 65 people in the next two years or so, subject to housing construction, of which 30 are children, 17 adult females and 18 adult males. This estimation does not include teachers and administration support personnel.

At time of preparation, the estimated aspirational population for Kandiwal over a 15-year period, was 170 residents by 2021. Migration to and from the community will be influenced among other things by the employment opportunities, family networks and obligations, services and infrastructure available in the community including the provision of housing.

Design Population

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

Based on the community's aspirational population, LP No. 1 assumed a design population of around 170 residents. This figure should be re-evaluated when a new LP is prepared for Kandiwal.

Based on a residential density of five people per house, the community would require 34 houses in total to accommodate a population of 170.

2.2 Governance

Incorporated Community

The community is managed through its incorporated body - Kandiwal (Aboriginal Corporation) (KAC). KAC was incorporated under the *Aboriginal Councils and Associations Act 1976* in 1987.

KAC represents the Ngauwudu (Mitchell Plateau) mob of Wunambal people, who are the traditional owners of the area, including the area of the Kandiwal settlement. Membership of KAC was redefined under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* to represent traditional owners.

The objectives of KAC are to:

- A. be the custodian Manager of the lands and waters of the region of Ngauwudu in the Unguu Native Title Claim described in Schedule 4 for the sustainable well-being of the lands, waters and the community in the region;
- B. to use the rights and interests of the Native Title to provide direct relief from poverty, sickness, suffering, destitution, distress and helplessness to the indigenous community in the Ngauwudu region and to include without limiting the generality of the above the following :
 - i. to support the Social Development and Capacity Building of the Members
 - ii. to help bring about the self support of the members by the development of sustainable community projects and activities
 - iii. to support education, job training, health services, work and housing for Members
 - iv. to help and encourage Members to manage their own affairs
 - v. to help and encourage Members to keep and renew their traditional culture
 - vi. to help build trust and friendship between Members and other people
 - vii. to participate with other aboriginal Associations, Corporations and Government Departments in projects for mutual benefit
 - viii. to receive and spend grants of money from Government of the Commonwealth or of the State or from other sources, without limiting the right of the Ngauwudu people to enjoy the Native Title rights of the remaining land and waters of the Unguu Title.

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

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

The crown reserve 42514, which the majority of the Kandiwal settlement and infrastructure is located on, is leased by the ALT to Kandiwal Nominees Aboriginal Corporation. KNAC was incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* in 2011.

The objectives of KNAC are to:

- A. be the holder of or custodian manager of any interests in the lands and waters of the region of Ngauwudu in the Unguu Native Title Claim for the indigenous Wunambal people and for the sustainable wellbeing of the lands, waters and the community in that region;
- B. use the rights and interests of the native title to provide direct relief from poverty, sickness, suffering, destitution, distress and helplessness to the indigenous community in the Ngauwudu region and to include without limiting the generality of the above the following:
 - i. to support the social development and capacity building of the members;
 - ii. to help bring about the self-support of the member by the development of sustainable community projects and activities;
 - iii. to support education, job training, health services, work and housing for members;
 - iv. to help and encourage members to manage their own affairs;
 - v. to help and encourage members to keep and renew their traditional culture;
 - vi. to help build trust and friendship between members and other people;
 - vii. to participate with other aboriginal associations, corporations and government departments in projects for mutual benefit;
 - viii. to receive and spend grants of money from the government of the Commonwealth or of the State or from other sources; without limiting the right of the Ngauwudu people to enjoy the native title rights of the remaining land and waters of the Unguu Title.

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

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

2.3 Land Tenure

Kandiwal is located on the following two titles as of November 2019:

<i>Crown Land Title details</i>	LR3165/959
<i>Lot Details</i>	Lot 25 on Survey Number LTO DIA 92910
<i>Status Order / Interest</i>	Reserve under Management Order
<i>Primary Interest Holder</i>	Aboriginal Lands Trust
<i>Area</i>	200.03 ha
<i>Limitations/Interests/ Encumbrances/Notifications</i>	<ol style="list-style-type: none"> 1. Reserve 42514 for the purpose of use and benefit of Aboriginal inhabitants. 2. Lease to Kandiwal Nominees Aboriginal Corporation. Subleases to Kimberley Wilderness Adventures Pty Ltd (3.781 ha, reference O124820) and Outback Spirit Tours Pty Ltd (4.99 ha, reference O124819).
<i>Land description</i>	part of Unallocated Crown Land (Type 3V)
<i>Polygon Identifier Number (PIN)</i>	636180
<i>Land ID</i>	3093188
<i>Area</i>	158325 ha

2.4 Native Title

The community is located within the determination area of the Uunguu Part A WAD6033/1999 claim, determined by consent on 23 May 2011. The registered Native Title Body Corporate is Wanjina-Wungurr (Native Title) Aboriginal Corporation RNTBC.

For further information refer to the determination on the Federal Court of Australia website link, <http://www.austlii.edu.au/au/cases/cth/FCA/2011/516.html>

There is also a registered Indigenous Land Use Agreement (ILUA), Kandiwal ILUA WI2018/008. For further information regarding the ILUA, search the NNTT Register of Land Use Agreements at:

<http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-Register-of-Indigenous-Land-Use-Agreements.aspx>

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](#).

2.5 Aboriginal Heritage

Notwithstanding the above, the following discussion of heritage matters derives 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](#).

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.

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 are **seven** registered sites (IDs 12256, 12258, 12259, 12286, 12326, 12327 and 14958) and **one** other heritage site, ID 12240, in the vicinity of the Kandiwal community, as of November 2019.

Any future development at the community, including LP No.1, should therefore be undertaken in consultation with the community and the native title holders to ensure adequate avoidance of sites.

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

The ideas for improvements to the facilities were noted by the Kandiwal community when the Layout Plan was developed in 2009, and are listed below. Where possible, these were 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. To provide the power and other infrastructure for a school and training facilities.
2. To provide a better environment with more opportunity for the community children to have a future that is not available in the Kimberley cities.
3. To have the community properly housed and allow all Wunambal people to be part of the Ngauwudu regional development.
4. To facilitate and manage the expansion of and get employment in tourism operations and their support services in Ngauwudu.
5. To have health facilities and services of an Australian community to be made available in Kandiwal at the appropriate times not only for the community but also for the development of tourism.
6. To become self sufficient in fresh food at a cheaper cost and for better health.
7. To control and manage Ngauwudu to secure and protect the cultural and secret areas from visitor activity.
8. To finally implement the sustainable community and tourism development plan for Ngauwudu that KAC presented KLC 15 years ago with KAC as the administrators on behalf of the Unguu Traditional Owners.

3 INFRASTRUCTURE & SERVICES

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

3.1 Electricity Supply

The existing power station is located on SL-lot 50. The electricity facility comprises of one diesel generator. The generator delivers 13 KW of power and the fuel is stored in an above ground fuel tank. A 240 volt expandable solar low maintenance system has been installed on SL-lot 51.

It is understood that the diesel generator is a stand –by facility in the event of an emergency.

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.

3.2 Water Supply

The drinking water supply for the community and the existing tourism operation to the north of the community, come from a single bore south of the community on SL-lot 307 without treatment via a 50kl water tank on SL-lot 310. Generally, the water quality would be described as good. KRSP inspect and test the supply regularly since current bore equipment was installed in 2005.

Potential additional supplies of bore water have been identified north-east of the community, on the eastern side of the Creek, on SL-lot 306. A ground water analysis using exploration data was being pursued at the time the Layout Plan was being developed. Other explored and capped bores are known to the community but for cultural and some practical reasons, these are not proposed as additional supplies for the community.

Camp Creek which flows past the community also provides a steady flow of water throughout the dry season and is planned to be used for food production irrigation. Subject to final results of the grey water irrigation trial, the public open spaces and sports oval will be irrigated by grey water as in other bush towns across Australia.

3.3 Wastewater

Existing buildings use a local septic style system without any detrimental effects. Recently grey water has been separated from black water to irrigate an orchard development trial. This approach to development is expected to continue for the next five years when sufficient buildings and population demand will make it economical for an environmental system to be installed.

3.4 Drainage

Storm water drainage occurs in Kandiwal between December and March. Road contouring and diversion works in and around the existing village are sufficient at present. The new siting of community expansion has taken these aspects into consideration. The new road layout continues this technique.

3.5 Rubbish Disposal

The settlement has a weekly refuse collection and community clean-up conducted by KAC. The refuse is generally household rubbish. The current community tip is located outside of Reserve 42514 on UCL (SL-lot 65).

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.

The prescribed exclusion boundary for a rubbish tip is 2000 metres however, all housing and infrastructure is located within the 2000 metres exclusion boundary. A more appropriate and regulated site further south could be considered in the future if required.

The most pressing need for the settlement is to secure a suitable new rubbish tip location, subject to constraints including land tenure and location of drinking water sources and creek systems. DPLH advised that this should be undertaken before substantial expansion of the settlement or growth in population. Remediation of the existing rubbish tip site should then follow.

3.6 Airstrip

The Kandiwal airstrip services the Ngauwudu region and is located 4 kms north of the community. Major maintenance is funded by the former Department of Environment and Conservation (DEC) and corporate joint venture. The airstrip is an unregistered year-round bush strip, which can also be used for emergencies at night. There are only a few occasions when the strip is closed for extreme weather. The community generally maintain the day to day airstrip requirements and operate it for community use but tourism operators, the mail and occasional charter operators also have free use of the bush strip.



Figure 2 - Gravel airstrip located north of community

3.7 Internal Road Layout

All internal community roads are unsealed and because there is no vehicular traffic through the community, dust was not noted as a problem at the time of the preparation of the Layout Plan. Sealing of Roads is not seen as a likely priority or until population growth of the community necessitates it.

Expansion of the LP requires the grading of new roads in the eastern portion and improvement of tracks in the western portion of the community.

None of the existing or new settlement layout (SL) roads have been named by the community.

3.8 Access & Dedicated Roads

Kandiwal is located on Port Warrender Road, 62 kilometres from the junction with Kalumburu Road. Port Warrender Road is not a gazetted public road.

The road is unsealed and accessible only between April and December. Most of the community's food and supplies come in on a mail plane from Kununurra. Materials and construction equipment are delivered by road in the dry season.

The funding of road construction and maintenance to Mitchell Falls National Park and airstrip grading on Ngauwudu is provided by the former DEC, with corporate joint venture funding. Kalumburu Road maintenance is funded by the Wyndham-East Kimberley Shire while the Derby - Gibb River Road is maintained by Main Roads Western Australia.

3.9 Community and Social Services

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

Store

There is no store in Kandiwal. A store is planned to be constructed by KAC in collaboration with other operators on SL-lot 49. It will run as a joint venture between operators and KAC as a "Not for Profit" business arrangement. It is unlikely to sell fuel. The nearest fuel stops are on the Kalumburu Road at Drysdale River station to the south and Kalumburu, to the north. Any emergency supplies are currently delivered by the existing tourism operator to the north of the community.

School

There are no education facilities in Kandiwal. Children are educated via School of The Air in a shed on SL-Lot 3.

SL-lots 46 and 48 are designated as the future locations of a primary and secondary school, respectively.

Office

The KAC Administration office is located in the centre of the community on SL-lot 42. At the time of consultation, there were two part-time staff.



Figure 3 - Kandiwal community office

Clinic

There was no clinic at the time of the development of the LP. Royal Flying Doctor Service (RFDS) nurses visit monthly and provide emergency services.

A clinic has been planned for on SL-lot 45.

Workshop

A workshop is used for maintenance, materials storage and small-scale. SL-lot 53 is designated for this purpose.

Recreation Centre and Recreational Activities

SL-lot 47 is set aside for a future recreation centre to be built by KAC in conjunction with MPA.

3.10 Tourism

There are two seasonal tourism camps to the north of the community, proximate to Camp Creek on SL-lot 305. The first tourism camp is leased by Kimberley Wilderness Adventures Pty Ltd from Kandiwal Nominees Aboriginal Corporation. The tourism camp is only occupied for six months of the year. The area is classified as 'Commercial' on the LP No.1 Context Plan.

The second tourism camp is on SL-lot 313 and leased by Outback Spirit Tours Pty Ltd from Kandiwal Nominees Aboriginal Corporation.

4 HOUSING

4.1 Number & Type of Dwellings

As of 2009, there were 5 existing residential lots at the community, on SL-lots 2, 7, 8, 9 and 12. These included three houses, a kitchen and an occupied shed.

Two of the houses and an ablution block were built by the former Department of Housing in 2004 as standard suburban houses. The remainder of buildings including the School of the Air and KAC administration office sheds, which are steel framed iron clad structures, and two toilets, were constructed at various times in 1990s.

4.2 Quality of Dwellings

At the time of consultation in 2009, apart from the two 2004 buildings which were waiting on hand rails around the verandah, the remaining buildings required upgrading due to little or no normal household amenities.



Figure 4 – Housing at Kandiwal

4.3 Future Residential Development

LP No. 1 plans for 38 residential SL-lots in total, with 35 SL-lots being for future residential for community members and 3 being for future teacher housing.

The community has an aspiration that housing construction is to be used as part of adult training programs. Simple pre-fabricated kit style housing accommodation can be erected and completed in approximately four weeks by trainees with supervision by short-term specialist trades visiting to make the appropriate connections. This type of housing, designed for cyclone zones, is significantly cheaper and quicker to construct. A skilled local remote work force will be able continue housing development and maintenance.

Based on the above, the LP provides for future housing land as follows:

- Short term – 4-6 houses, Education Worker Accommodation, Store, Clinic
- Medium term – 10 houses
- Medium to long term – 15 Houses
- Long term – 6 Houses

The stages of house construction will be subject to education and training facilities.

DPLH advised that medium term development should be subject to identification and development of a new tip site, and development of residential SL-lots 36-40 in the medium to long term, should be subject to verification of the site's suitability. Further development of these sites should not occur in close proximity to the horticultural area until such time as these lots are connected to reticulated sewerage.

5 CONSTRAINTS AND LIMITATIONS

5.1 Flood Hazard

There has not been any flooding of Kandiwal in community memory. A cyclone in December 2009 delivered 550 mm of rain in three days, as measured by the community without direct effect on the living area or damage to community housing and infrastructure.

Access roads are restricted for a period of time after heavy deluges.

As a mitigation measure against flooding, a run-off diversion bund lies east of the existing community. There is no formal drainage.

5.2 Drainage

No drainage issues were identified in Kandiwal. However, the development of sealed roads will assist in drainage of the community living area during heavy rain.

5.3 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.

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. 1:

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

6.2 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.

Kandiwal is zoned settlement under LPS 9. The purpose of this zone is to identify existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places.

Under the Scheme, preparation and endorsement of a layout plan in accordance with State Planning Policy 3.2, and ensuring that development accords with a layout plan, are requirements of the settlement zoning (see current Scheme zoning in Figure 4 on the following page).

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

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

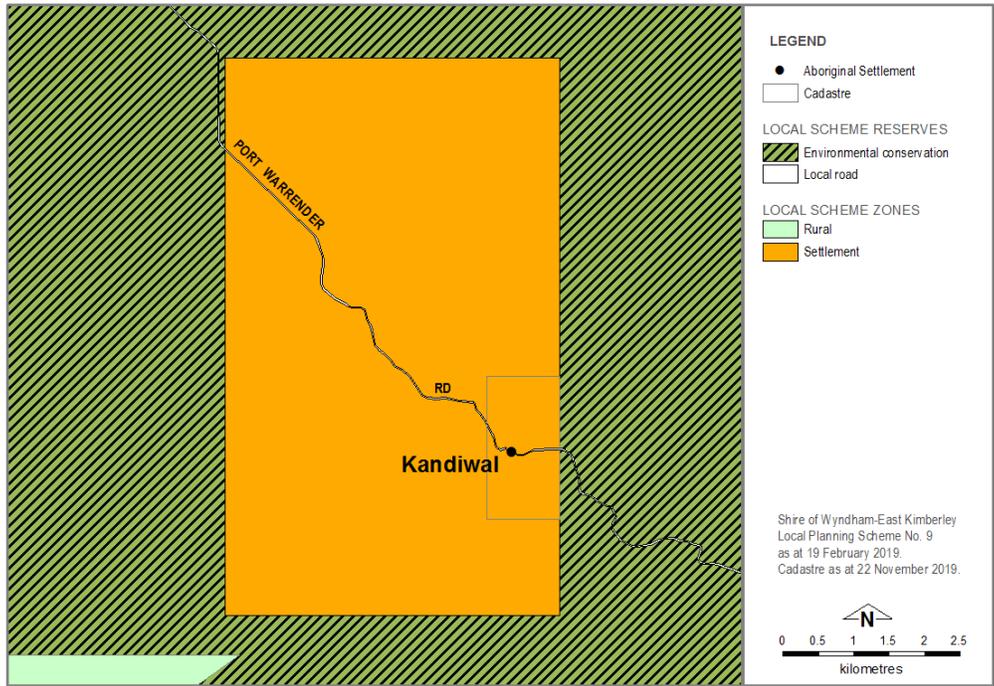


Figure 5 - Land classification under SWEK LPS 9 - Kandiwal

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

KANDIWAL ABORIGINAL CORPORATION - Endorsement

Kandiwal Community Layout Plan No. 1

Kandiwal, Ngauwudu, North Kimberly
c/o P.M.B. 2
KUNUNURRA, WA 6743

The Kandiwal Aboriginal Corporation (representing the community) hereby adopts the **Kandiwal Community Layout Plan No. 1 2010** as a guide for future development within its boundaries.

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

The 28 WEDNESDAY Day of APRIL 2010

Adopted by the Kandiwal Aboriginal Corporation :

CATHERINE GOONACK

Catherine Goonack

Chairperson
[Please print and sign name]

Bernice Goonack
BERNICE GOONACK
Director

Patricia Goonack
PATRICIA GOONACK
Director

KATRINA WHEELLOCK

KATRINA WHEELLOCK
Director

MARLENE GOONACK

MARLENE GOONACK
Director

Ambrose Phillips

AMBROSE PHILLIPS Kandiwal Community Layout Plan No. 1 - Draft February 2010

Shire of Wyndham – East Kimberley - Endorsement

Kandiwal Community Layout Plan No. 1

Shire of Wyndham – East Kimberley
P.O.Box 614
KUNUNURRA WA 6743

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

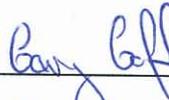
The EIGHTEENTH Day of MAY 2010

Endorsed by the Shire of Wyndham – East Kimberley:



F.E. MILLS

Shire President
(Please print and sign name)



GARY GAFFNEY

CEO
(Please print and sign name)

GARY GAFFNEY
CHIEF EXECUTIVE OFFICER
SHIRE OF WYNDHAM-EAST KIMBERLEY

Council
Seal



Western Australian Planning Commission Endorsement



Kandiwal Community Layout Plan No.1

469 Wellington Street
Perth WA 6000

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

The 8TH Day of JUNE 2010

Signed for and on behalf of the Western Australian Planning Commission

S Wood

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

[Signature]

Witness

11 JUN 2010 Date

CONSULTATION & REFERENCES

CONSULTATION SUMMARY

MPA – Kandiwal LP Consultation Summary

The Mitchell Plateau Association began consultation for the Kandiwal LP in November 2007. Preparation of LP No. 1 is the result of on-going consultation by MPA with the community representatives and a range of agencies, authorities, non-government organisations from October 2007 to January 2010.

Face to Face consultations undertaken by MPA are listed below:

MARCH 08 – Perth

D. Indigenous Affairs

MAY 08 – Perth

D. Industry & Resources / D. Planning & Lands / D. Indigenous Affairs / Indigenous Co-ordination Council / National Native Title Tribunal / Kimberley Land Council / Kandiwal Aboriginal Corporation

AUG 08 – Broome & Kandiwal

Kimberley Land Council / Kandiwal Aboriginal Corporation

JAN 09 – Melbourne

Minister FAHCSIA – Jenny Macklin MP

APRIL 09 – Derby

Kandiwal Aboriginal Corporation / Winun Ngari Aboriginal Corporation

SEPT 09 – Perth

D. Education & Training / Energy / Cool Room companies / RIO

OCT 09 – Melbourne

D. Family Assistance, Housing, Community Services & Indigenous Affairs

OCT 09 – Melbourne

Bureau of Meteorology

DEC 09 – Perth

D. Education & Training / Energy / Dept. Housing Service / D. Indigenous Affairs / SKM

The list of organisations MPA has been in contact with by Email or telephone is below:-

Organisation	Contact
Kandiwal Aboriginal Corporation – Directors Wunambal Gaambera Aboriginal Corporation	C. Goonack Esther Waina
Kimberley Land Council	Rob Powrie
Sinclair,Knights & Merz	Adrian Day
Wyndham - East Kimberley Shire	K. Cripps J. Ninyette
Australian Bureau of Meteorology	K. Jarrott
Sustainable Energy Development Office (Office of Energy)	V. Greenhalgh
State Land Services, Department of Regional Development & Lands	M. Raven
Department of Planning	Ashley Randell Simon Davis
Department of Education & Training	P. Pustkuchen
Department of Industry & Resources	R. Burton
Department of Indigenous Affairs & ALT	D. Lanangan B. Gorrington
Department of Housing	M. O'Meara J. Butterworth
Department of Environment & Conservation	D. Moncreif
Department of Water	J. Phelps
National Native Title Tribunal (NNTT)	T. Weaver
Department of Health –infrastructure Regional Area Clinic - Health / Sewerage	C. Edward G. Moffat K. Fuster
Kimberley Regional Service Providers	Toot

REFERENCES

Department of Indigenous Affairs (DIA) 2008 *Environmental Health Needs Survey of Indigenous Communities in Western Australia*. Government of Western Australia. Available at: www.dia.wa.gov.au

Jebb, M. 2008 *Mowanjum 50 Years: Community History*. Mowanjum Aboriginal Community & Mowanjum Artists Spirit of the Wandjina Aboriginal Corporation, Derby, WA.

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

Wunambal-Gaambera Aboriginal Corporation (WGAC) 2000 *Ngauwudu Management Plan: Land of Wandjina & Wunggurr*

AMENDMENTS

Kandiwal Layout Plan No.1

Amendment No.1

DEPT OF PLANNING
25 AUG 2011
FILE DP/10/00152

Date : 13 July 2011

WAPC :

Officer : Justin Abbott

Endorsed

Requires : Yes
Endorsement

Reason for the Amendment

Reconfiguration of Layout Plan to reflect the onsite survey undertaken by SKM (on behalf of community). The new Layout Plan will improve clarity of the existing situation, future lot layout and road network to assist in the development of houses and infrastructure.

Development Intention	Changes required to LP
1. Layout Reconfiguration	<ol style="list-style-type: none"> 1. Removal and reconfiguration of residential lots in Kandiwal Stage 1 and Stage 2 Housing. 2. Reconfiguration of Community lots in south portion Layout. 3. Connection of Loop road through central community area between visitors accommodation and community sheds/toilets. 4. Inclusion of a 'Rural' lot for Horticultural purposes.
2. Re-numbering Lots	<ol style="list-style-type: none"> 1. Residential Lots - 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40. 2. Community Lots – 41, 42, 43, 44, 45, 46, 47, 48. 3. Public Utility Lots – 50, 51, 52, 65. 4. Commercial Lots – 49, 305. 5. Industrial Lots – 53. 6. Rural Lots – 108.
3. Notes	<ol style="list-style-type: none"> 1. Public Utility Lot 51 will be used to store solar panels to provide energy to the school and community. This is considered a low risk land use in regards to health and safety. 2. Public Utility Lot 50 is considered low risk to health and safety as the generator and tank is not expected to be used more than 20 hours a year. It is also at a different level and will be screened by trees. All fuel will be bunded.

Approved:

Kandiwal Aboriginal Corporation

Catherine Goonack CATHERINE GOONACK
please sign and print name CHAIR PERSON
Ambrose Phillips AMBROSE PHILLIPS
(DIRECTOR)

Date 26/9/2011

Shire of Wyndham East Kimberley


please sign and print name

GARY GAFFNEY

Date 25/10/ 2011

CR. JOHN MOULDEN

Western Australian Planning Commission


please sign and print name

Date 10/10/ 2012

REMOVED & RECORDED IN MINUTES
OF THE STRATEGIC PLANNING
COMMITTEE MEETING
9 OCT 2012

Kandiwal Layout Plan No. 1

Amendment No. 2

Proponent : Department of Planning, Lands and Heritage

Date : 23 August 2018

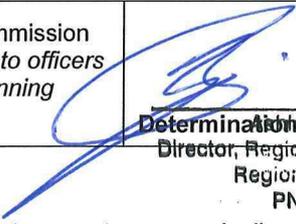
Reason for the Amendment

The Department of Planning Lands and Heritage (DPLH) has prepared Amendment 2 to Layout Plan 1 (LP1) as a spatial upgrade to the map-set.

Land Identification		Amendment description
1	All SL-Lots	Spatial update to match air photography.
2	SL-lot 310	Create new SL-lot 310 'public utility' (existing water tank).
3	Pedestrian access way	At the end of Third Street removed due to existing road to rubbish tip.
4	Third Street	Extended to rubbish tip (SL-lot 65) to match existing road.
5	SL-lot 65	Expanded to 80 by 80 metres.
6	SL-lots 13 - 15	Re-aligned to match existing road, Third Street
7	SL-lots 17 - 23, 51	Re-aligned to match existing roads, Third Street and Fourth Street.
8	SL-lots 3 and 4	Battle axe access to SL-lot 3 added via SL-lot 4 to ensure road frontage for SL-lot 3.
9	Waterway	Updated to match 2013 air photo.
10	SL-lot 305	Expanded to match ALT lease.
11	Second Street	Extended further south to match existing road.
12	Port Warrender Road, north-west of Kandiwal	Spatially upgraded to match existing road.
13	Open space 1km north of SL-lot 306.	Add SL Road "Ninth Street" to match air photo (east - west road).
14	Open space 500 metres north of SL-lot 306	Add SL Road "Tenth Street" to match air photo (north - south road).
15	SL-lot 313	Create SL-lot 313 'commercial' to reflect commercial accommodation and associated infrastructure.
16	Existing SL Road leading to airstrip	Name newly created road "Eleventh Street"
17	Existing SL Road west of airstrip	Name newly created road "Twelfth Street" to match air photo (east - west road).
18	Land use 'waterway' north of airstrip	Re-instate on Layout Plan as per air photo.

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.*

 27/08/2018
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.

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

Reason for the Amendment

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

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

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

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

Endorsement:

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

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

This Layout Plan does not constitute development approval.

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