



LATE ITEM 9.7

Petroleum Acreage Release

1P/2023 – Discrete Area L23-8

Ordinary Council Meeting

26 July 2023

9.7 Petroleum Acreage Release 1P/2023 – Discrete Area L23-8

File reference			
Report date	20 July 2023		
Applicant/proponent	Department of Mines, Industry Regulation and Safety		
Officer disclosure of interest	N/A		
Previous meeting references	Nil		
Prepared by	Sean Fletcher, CEO		
Senior Officer	N/A		
Authorised by	CEO		
Attachments			
Attachment 1	Page	11	Letter from DMIRS: PROPOSED PETROLEUM ACREAGE RELEASE 1 OF 2023 UNDER PETROLEUM AND GEOTHERMAL ENERGY RESOURCES ACT 1967 – DISCRETE AREA L23-8
Attachment 1A	Page	13	Map of 2023 Petroleum State Acreage Release
Attachment 1B	Page	14	Cadastre of Discrete Area L-38
Attachment 1C	Page	15	Landgate Plan and Aerial of land impacted in Shire of Victoria Plains
Attachment 2	Page	16	Map of Onshore Petroleum Titles and Hydraulic Fracturing Ban Areas - September 2022

PURPOSE

Council is asked to consider and provide comments on behalf of the Shire of Victoria Plains regarding the Department of Mines, Industry Regulation and Safety (DMIRS) plans to issue an exploration permit for Discrete Area L23-8.

BACKGROUND**Request for Comments**

Mathew L Smith, Team Leader of the Resource Tenure Division at DMIRS has written to the Shire of Victoria Plains seeking comments by 10 August 2023 regarding plans to issue an exploration permit for Discrete Area L23-8 (Attachment 1).

DMIRS has selected eight discrete areas across Western Australia for inclusion in Petroleum Acreage Release 1 of 2023 (Attachment 1A). The impacted area regarding the Shire is in the vicinity of Murphy Gully and Cocking Roads, Mogumber (Refer to the maps in Attachment 1B and Attachment 1C).

Petroleum acreage releases are an invitation for companies to bid for an exploration permit. As such, Acreage Release 1 will be undertaken on a competitive work program basis, with bids being assessed on the merits of the proposed work program, the technical and financial resources of the applicant, as well as the past performance of the applicant in undertaking petroleum operations.

Mr Smith's letter does, in part, state:

“as part of the Implementation of the Government’s response to recommendations from the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia, petroleum companies with title applications arising from acreage release will be unable to undertake hydraulic fracturing as such applications do not meet the requirements of r3A of the *Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Regulations 2017*. For clarity this will include any production licence(s) or retention lease(s) arising out of exploration permits deriving from an acreage release undertaken after 26 November 2018.”

The Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia included 91 findings regarding “fracking” and made 44 recommendations. The State Government accepted in principle all 44 recommendations. To this end, the government on 27 November 2018, made the following policy decisions:

1. lift the hydraulic fracture stimulation moratorium (i.e. State Moratorium) on all onshore petroleum titles existing as of 26 November 2018; and maintain the ban over the South-West, Peel and Perth Metropolitan regions;
2. ban hydraulic fracture stimulation in national parks, the Dampier Peninsula and other iconic natural heritage areas (to be defined and delineated on maps);
3. introduce a requirement for consent of relevant Traditional Owners and private landowners before hydraulic fracture stimulation production is permitted;
4. restore the 10 per cent royalty rate for all onshore petroleum;
5. establish a Clean Energy Future Fund (with a \$9-million seed allocation), using net royalties from onshore hydraulic fracture stimulation petroleum projects, to support facilitation of clean energy developments; and
6. prohibit hydraulic fracture stimulation within 2,000 metres of gazetted Public Drinking Water Source Areas.

Under the *Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Regulations 2017*, the moratorium referred to above is defined as:

moratorium area means an area of the State that is not —
(a) an existing petroleum authority area; or
(b) an area referred to in regulation 4;

moratorium period means the period beginning on 9 December 2017 and ending on the day on which regulation 5 is repealed;

By way of further explanation regarding the definitions applied to moratorium area, Regulation 4 confirms the Government’s policy decisions:

4. Prohibition on hydraulic fracturing in certain areas of the State

A person must not, in the course of carrying out a petroleum operation under a petroleum authority, carry out hydraulic fracturing in any of the following areas of the State —

- (a) the metropolitan region;
- (b) the Peel region;
- (c) the South West region;
- (d) the Dampier Peninsula hydraulic fracturing ban area;
- (e) a national park as defined in the *Conservation and Land Management Act 1984* section 3;
- (f) a public drinking water source area;
- (g) an area that is within 2 km of a public drinking water source area;
- (h) an iconic natural heritage place.

In terms of the moratorium period, Regulation 5, states:

5. Moratorium on hydraulic fracturing in other areas of the State

[(1) deleted]

- (2) During the moratorium period, a person must not, in the course of carrying out a petroleum operation under a petroleum authority, carry out hydraulic fracturing in a moratorium area.
Penalty for this subregulation: a fine of \$10 000 for each day on which the offence occurs.

[Regulation 5 amended: Gazette 6 Sep 2019 p. 3200.]

As seen earlier, Mr Smith states that applicants will be unable to undertake hydraulic fracturing as such applications do not meet the requirements of r3A of the *Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Regulations 2017*. Regulation 3A states:

3A. Existing petroleum authority area

- (1) An area of the State is an *existing petroleum authority area* if —
 - (a) there was a petroleum authority in force in respect of the area on 26 November 2018; and
 - (b) in the period since that day there has always been a petroleum authority in force in respect of the area; and
 - (c) there is currently a petroleum authority in force in respect of the area.
- (2) For the purposes of subregulation (1) it does not matter that different petroleum authorities have been in force in respect of the area at different times.

[Regulation 3A inserted: Gazette 6 Sep 2019 p. 3199.]

In short, what the regulations mean is that the *moratorium will only be lifted on land covered by onshore petroleum titles (exploration permits, retention licences and production licences) existing as of 26 November 2018* (Source: Frequently Asked Questions – Implementation of the Government’s response to The Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia – July 2019).

A map is provided in Attachment 2 which sets out existing petroleum titles, hydraulic fracturing ban areas and the State Moratorium on Hydraulic Fracturing (the rest of the State).

COMMENT

Petroleum Acreage matters are, in essence, those that are considered unconventional gas and oil exploration along with the associated activities that result from such exploration. In today’s matter before Council, it is in effect those matters regarding gas extraction.

Petroleum Acreage is a State matter and as such, local government can only provide comment regarding an activity of this nature as a courtesy and has no decision making or other similar capacity in such matters.

However, given that the Shire is currently a stakeholder in at least one key mining project regarding the Copper Project in Wongan Hills, is experiencing exploration drilling across the Shire in relation to the Julimar Project and has now introduced differential rating to help ameliorate some of the costs regarding such activity and the prospect of future mining in the district, perhaps; there is also an opportunity for Council to explore including a position on both mining and gas exploration.

The Precautionary Principle

In helping form its view or position, Council and therefore the Shire in this instance, may give (as the Shire of Chittering did), consideration to applying the Precautionary Principle, which is summed up as follows:

This principle does not equate a "no risk" policy but rather requires greater weight be given to environmental and public health protection where there is insufficient scientific information

available upon which to base decisions. Its most specific instruction is for us to be responsive to problems created by scientific uncertainty. The two central elements of the principle are that:

- We should be confident about predictions of future environmental effects of activities before allowing them; and
- We should not wait for conclusive proof of environmental harm before adopting appropriate remedial measures.

As with most complex human activities in modern societies, absolute scientific certainty regarding the relative contributions of positive and negative impacts of unconventional mining and fracking on public health and the environment is unlikely to ever be attained.

However, there is enough uncertainty about the kinds of adverse health outcomes that may be associated with this form of mining and the effectiveness (both short and long term) of some of the mitigation measures proposed by proponents (or required by state and federal agencies) in reducing or preventing environmental impacts which could adversely affect public health, agriculture or other similar economic activity, water supplies and the general environment, that the precautionary principal should be applied to any application for such an activity within the Shire.

The Position of Neighbouring and Other Local Governments

The Shire of Chittering resolved at its meeting on 15 February 2017 to not support any form of unconventional mining (or exploration) including coal seam gas and fracking activities within its district (for now) by applying the precautionary principle to the protection of its population, sensitive environments, water resources, agricultural and horticultural issues.

At the Gingin council meeting on 20 June 2019, it was resolved to support the overwhelmingly decision of the February 2019 Annual Meeting of Electors and take a position of refusal to allow unconventional fracking in the Shire of Gingin on the understanding that this ultimately a State Government decision.

The Shire of Carnamah has in place Policy 7.11 Petroleum, Mining and Extractive Industries in which Council does not support further petroleum resource development within the Shire (including exploration) which has not first undergone thorough and independent assessment of environmental, health, agricultural and socio-economic impacts (including cumulative impacts) by the Environmental Protection Authority, Department of Health and other relevant agencies. In doing this, it has set the following “standards:”

The Shire of Carnamah will consider each proposal for petroleum resource development or exploration within the Shire by applying the follow criteria for decision-making. To be supported by the Shire, exploration and development must:

- Undertake thorough community consultation and achieve demonstrated broad community support for development;
- Maintain and protect the amenity and character of the Shire, and its existing communities and land uses;
- Ensure zero impact on groundwater resources used for drinking, agriculture or other existing uses, including the catchment and recharge areas for these resources;
- Ensure zero impact on the health of communities or individuals within the Shire;

- Ensure that the impacts on Council infrastructure are adequately compensated for in the immediate and future life of that asset, and that the full costs are recovered for any additional infrastructure required;
- Provide full transparency to the community regarding all environmental compliance and monitoring data, including air quality and groundwater monitoring results, chemicals used, and any other relevant information which must be disclosed in a timely manner.
- Accept a 'presumption of liability' for any groundwater pollution that is detected in the vicinity oil and gas extraction operations and which can reasonably be associated with those operations.
- Provide guarantees of full reparation and remediation of groundwater, land, infrastructure, public health or other unplanned impacts that arise from the development.

The Shire of Carnamah is not willing to provide its support or assistance to proponents or other parties (including the State Government) who seek to undertake or promote petroleum activities within the Shire that do not meet these standards

The Shire of Coorow (the first to adopt such a policy), under Policy 9.7.1 Petroleum, Mining and Extractive Industries has the same policy statement as the Shire of Carnamah.

The author could not find anything conclusive regarding a position on unconventional gas and oil exploration for the Shires of Toodyay, Wongan-Ballidu and Moora. The Shire of Dandaragan would appear to have within its boundaries, extensive community campaigning against such activities.

Further Thoughts Regarding Discrete Area L-38

As can be seen in Attachment 1B, the majority of Discrete Area L-38 impacts the Shires of Chittering and Gingin. The minor portion that impacts on the Shire of Victoria Plan is in the south western corner that bounds onto the Shires of Chittering and Gingin and encompasses both Murphy Gully Road and Cocking Road. This can be seen in the Landgate aerial photograph in Attachment 1C.

It is the author's considered opinion that the Shire of Victoria Plains regarding Discrete Area L23-8 should respond that it would like to see the following addressed regarding any assessment undertaken by DMIRS for the issue of an exploration approval:

1. That the successful applicant meets with the Shire of Victoria Plains to discuss and advise on:
 - a. The intended work program, including whether this work is expected to occur on private land, Shire controlled land including its road reserves.
 - b. What it intends to do with any "finds" that result from the exploration. This is an issue of waste disposal and as such can impact on the local government's capacity to take or store such waste if such disposal is needed.
2. That the successful applicant as part of meeting the criteria regarding the merits of the proposed work program, the technical and financial resources as well as past performance can demonstrate clearly its commitment to key environmental principles including how they will ameliorate the impacts on the local communities and their respective environments, both natural and built.
3. That the successful applicant keeps the Shire as a stakeholder, informed on a regularly basis regarding its exploration activity. This is because, in the Shire's experience other exploration companies have either not bothered to engage with the Shire regarding such activity and have

processed finds in townsites or after the initial contact failed to update it on where the work program is at.

CONSULTATION

Mr Joe Douglas, Consultant Town Planner

Mr Gordon Houston, Consultant Environmental Health Officer

Council Briefing Session – July 2023

To date, no community consultation by the Shire has been undertaken regarding unconventional oil and gas exploration and associated activities. This is a new experience for the Shire and one that needs a process developed regarding the need for any future engagement, should it be considered necessary.

However, it would be appropriate, as a starting point, regarding future considerations that Council perhaps undertakes a workshop to tease out the key issues for consideration:

- Facilitated by the CEO;
- Contains advice provided by the Shire's consultant town planner and environmental health officer.

It is suggested that Council also seeks a briefing from DMIRS regarding petroleum and gas exploration and the regulatory framework as it exists in Western Australia.

At the end of the day, the reality in terms of timeframes regarding from exploration that might lead to unconventional extraction occurring is significant (lengthy).

STATUTORY CONTEXT

Australian Petroleum and Geothermal Energy Resources Act 1967

Local Government Act 1995

Planning and Development Act 2005

Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Regulations 2017

As set out in the background to this report.

Such activities are legislated and administered by the State Government under the *Australian Petroleum and Geothermal Energy Resources Act 1967* which operates separately to the *Local Government Act 1995* and the *Planning and Development Act 2005*. Local Government does not have legislative control over these activities. This does not however, stop the Shire from expressing an opinion regarding such activities or having regard to its planning scheme provisions.

CORPORATE CONTEXT

In essence, this matter is one that requires a tactical (short term) response as the Shire has neither a specific strategic action or policy regarding its position on how to respond to such matters.

However, under the Shire's Strategic Community Plan there are clear strategic priorities that encapsulates:

3.1 Maintain a high standard of environmental health and waste services.

3.2 Conservation of our natural environment and resources.

Risk Analysis

This is for exploration activity, not for any follow-up activity that might result from confirmed findings.

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance/ Controls	Mitigation and Outcome
<p>Reputation</p> <p>Despite this matter being a State issue, the Shire should advocate for sound stewardship</p>	<p>Moderate (3)</p> <p>Substantiated, public embarrassment, moderate impact, moderate news profile. Example State-wide paper, TV News story.</p>	<p>Likely (4)</p> <p>Probably occur in most circumstances</p> <p>At least once per year</p>	High (12)	<p>Executive Team (SMT)</p> <p>Risk acceptable with effective controls, managed by senior management / executive and subject to monthly monitoring</p>	<p>By ongoing monitoring, the CEO and the SMT will be in a position to advise Council on an appropriate course of action.</p> <p>This will reduce the risk from High to Moderate where six monthly monitoring will be required</p>
<p>Environment</p> <p>As per Reputation</p>	<p>Moderate (3)</p> <p>Contained, reversible impact managed by external agencies</p>	<p>Almost Certain (5)</p> <p>The event is expected to occur in most circumstances (>90% chance)</p> <p>More than once per year</p>	High (15)	<p>Executive Team (SMT)</p> <p>Risk acceptable with effective controls, managed by senior management / executive and subject to monthly monitoring</p>	<p>The CEO and appropriate officers to raise issues of concern with the relevant agencies as required, seeking remedial action.</p> <p>This should reduce the risk from High to Moderate/Low</p>

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute majority required: No

Officer Recommendation

Moved Cr _____

Seconded Cr _____

That Council:

1. **AUTHORISES** the CEO to respond to the Department of Industry Regulation and Safety regarding the release of Discrete Area L-38 as follows:
 1. That the successful applicant **MEETS** with the Shire of Victoria Plains to discuss and advise on:
 - a. The intended work program, including whether this work is expected to occur on private land, Shire controlled land including its road reserves.
 - b. What it intends to do with any “finds” that result from the exploration. This is an issue of waste disposal and as such can impact on the local government’s capacity to take or store such waste if such disposal is needed.
 2. That the successful applicant as part of meeting the criteria regarding the merits of the proposed work program, the technical and financial resources as well as past performance can demonstrate clearly its commitment to key environmental principles including how they will ameliorate the impacts on the local communities and their respective environments, both natural and built.
 3. That the successful applicant keeps the Shire as a stakeholder, informed on a regularly basis regarding its exploration activity. This is because, in the Shire’s experience other exploration companies have either not bothered to engage with the Shire regarding such activity and have processed finds in townsites or after the initial contact failed to update it on where the work program is at.
2. Considers it appropriate, as a starting point, regarding future petroleum and mining exploration and activity, undertaking a workshop facilitated by the CEO to tease out the key issues for consideration of developing the Shire’s position on such activity.
3. That the CEO seeks a briefing from the Department of Industry Regulation and Safety with Council regarding petroleum and gas exploration and the regulatory framework as it exists in Western Australia.

For _____ / Against _____



Our ref L23-8
Enquiries Petroleum.titles@dmirs.wa.gov.au
9222 3550
Matthew.SMITH@dmirs.wa.gov.au

Shire of Victoria Plains
Sent by Email - reception@victoriaplains.wa.gov.au
PERTH WA 6000

Dear Sir/Madam

PROPOSED PETROLEUM ACREAGE RELEASE 1 OF 2023 UNDER PETROLEUM AND GEOTHERMAL ENERGY RESOURCES ACT 1967 – DISCRETE AREA L23-8

The Department of Mines, Industry Regulation and Safety (DMIRS) has selected eight discrete areas for inclusion in Petroleum Acreage Release 1 of 2023. As Area L23-8 intersects with the Shire of Victoria Plains, I am writing to you seeking any comments you wish to make in relation to the proposal to include this area in Acreage Release 1 of 2023.

Petroleum acreage releases are an invitation for companies to bid for an exploration permit. This acreage release will be undertaken on a competitive work program basis, with bids being assessed on the merits of the proposed work program, the technical and financial resources of the applicant, as well as the past performance of the applicant in undertaking petroleum operations.

DMIRS plans to open bidding in September 2023 for a period of three (3) months. Following this, it may take several months to assess the bids and identify a preferred applicant. Once the assessment process is complete any preferred applicant will need to fulfil any future act requirements of the *Native Title Act 1993* prior to a formal offer of grant being made.

Please note that all field-based exploration operations will require separate approval processes prior to the operation commencing, this may require engagement with other Government Departments or Agencies. Additionally, access to lands that are reserved, declared or otherwise dedicated requires the consent of the Minister for Mines and Petroleum before the activity can commence.

Furthermore, as part of the Implementation of the Government's response to recommendations from the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia, petroleum companies with title applications arising from acreage release will be unable to undertake hydraulic fracturing as such

applications do not meet the requirements of r3A of the *Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Regulations 2017*. For clarity this will include any production licence(s) or retention lease(s) arising out of exploration permits deriving from an acreage release undertake after 26 November 2018.

I have attached a map, and ArcGIS shapefiles of the release area and seek any comments you may wish to make by 10 August 2023. If no response is received by this date it will be taken that you have no comments to make in relation to the inclusion of this area in Acreage Release 1 of 2023.

If further information is required please do not hesitate to contact this office by email at petroleum.titles@dmirs.wa.gov.au.





Yours sincerely

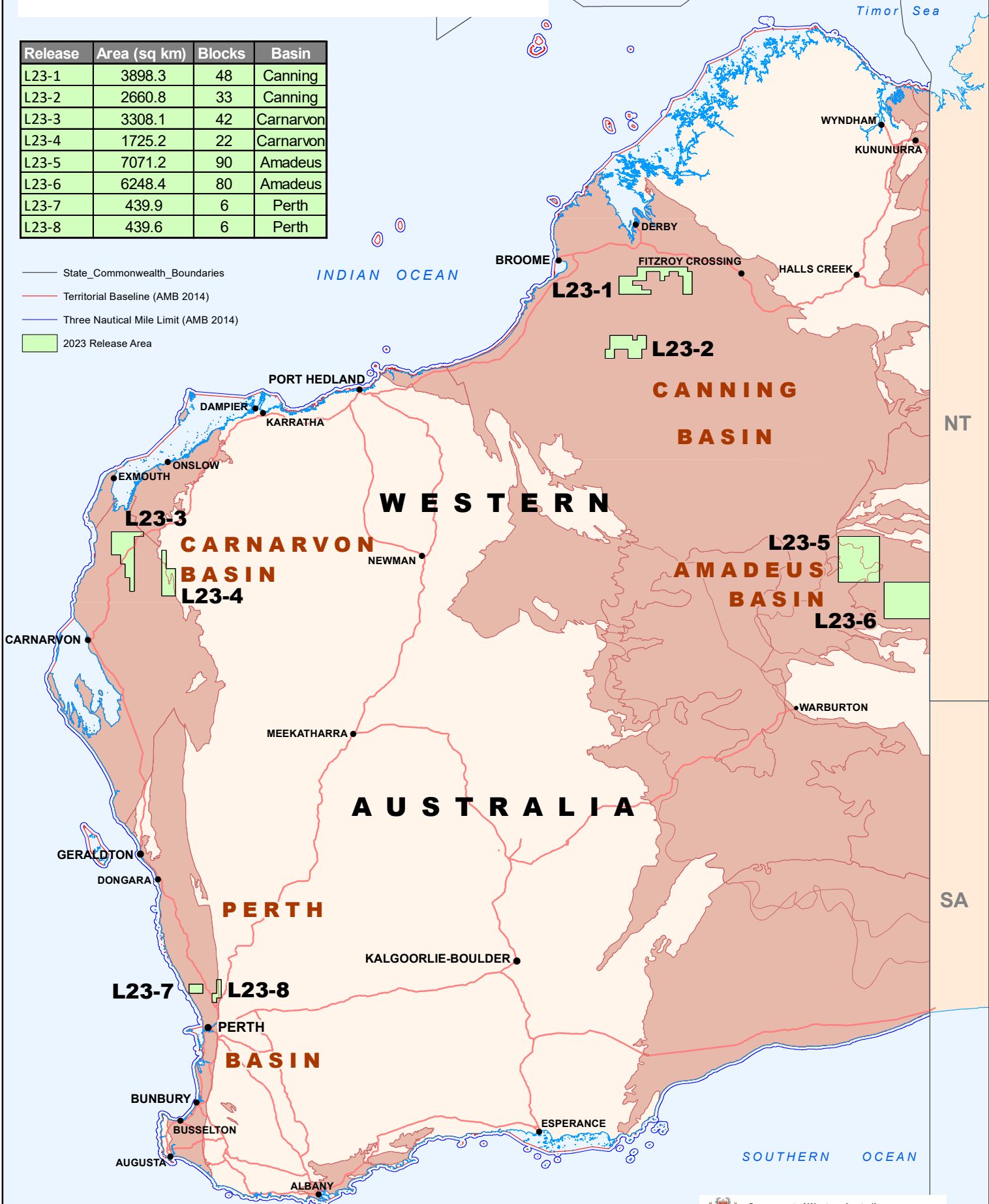
Matthew L Smith

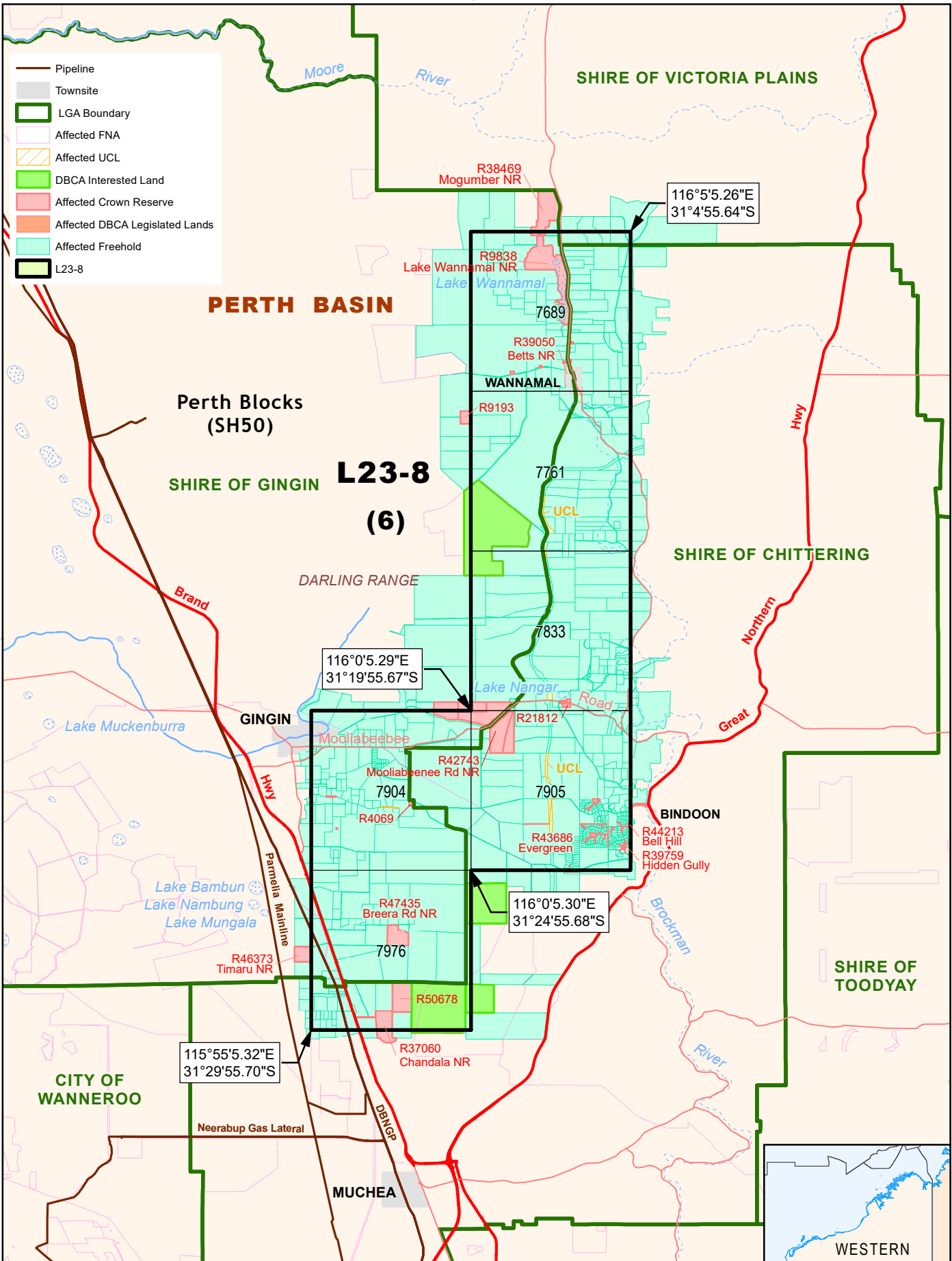
Matthew L Smith | Team Leader
Resource Tenure Division
09 June 2023

2023 PETROLEUM STATE ACREAGE RELEASE

Release	Area (sq km)	Blocks	Basin
L23-1	3898.3	48	Canning
L23-2	2660.8	33	Canning
L23-3	3308.1	42	Carnarvon
L23-4	1725.2	22	Carnarvon
L23-5	7071.2	90	Amadeus
L23-6	6248.4	80	Amadeus
L23-7	439.9	6	Perth
L23-8	439.6	6	Perth

-  State/Commonwealth Boundaries
-  Territorial Baseline (AMB 2014)
-  Three Nautical Mile Limit (AMB 2014)
-  2023 Release Area





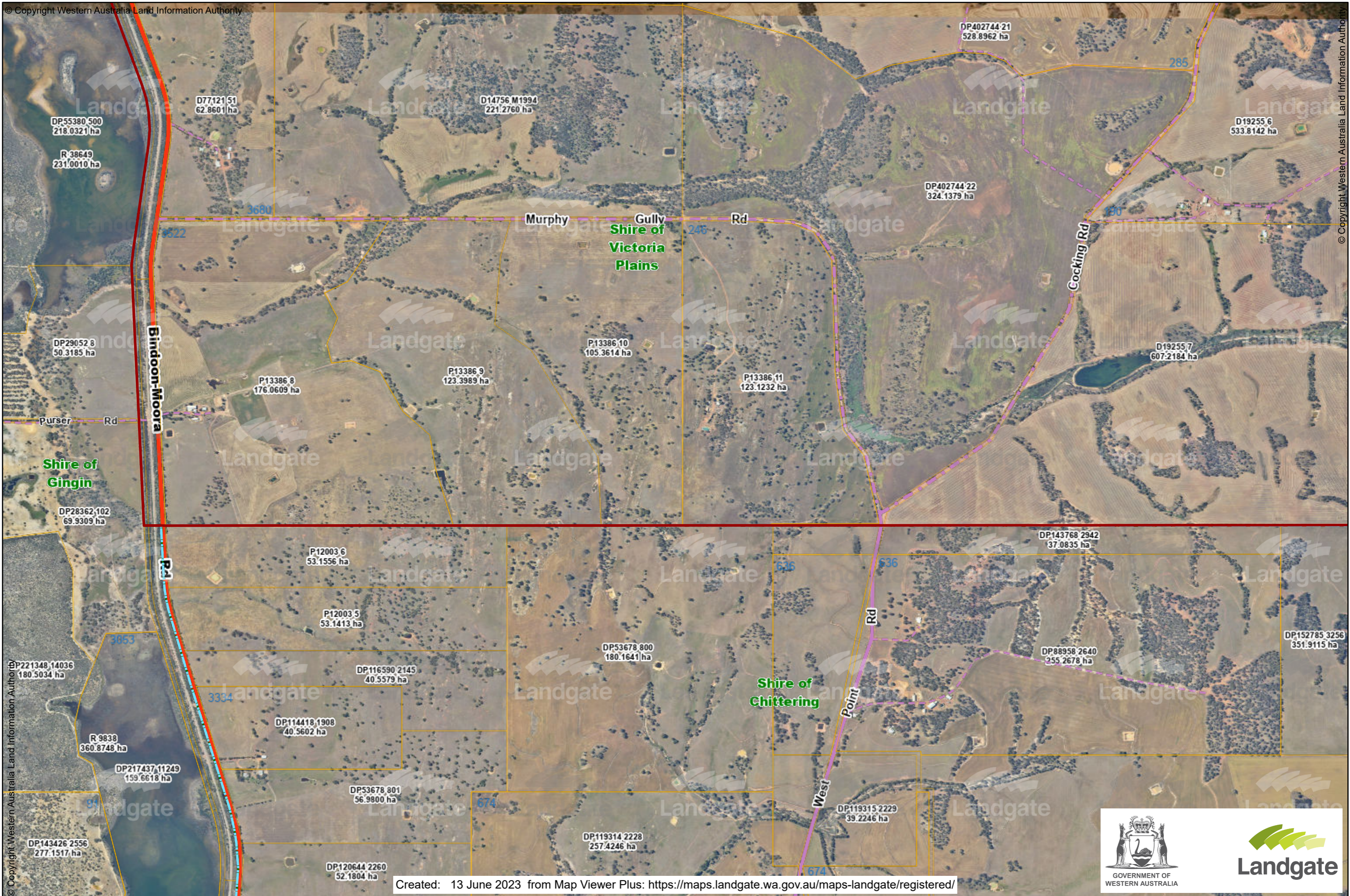
Government of Western Australia
Department of Mines, Industry Regulation and Safety

Release Area L23-8 Cadastre, DBCA Lands

0 5 10 km

Coordinates hereon are in accordance with Section 8 of the *Petroleum and Geothermal Energy Resources Act 1967 (WA) (PGERA67)*. The displayed grid defining the 5' x 5' blocks is AGD66 and coordinates shown are GDA94.





ONSHORE PETROLEUM TITLES AND HYDRAULIC FRACTURING BAN AREAS September 2022

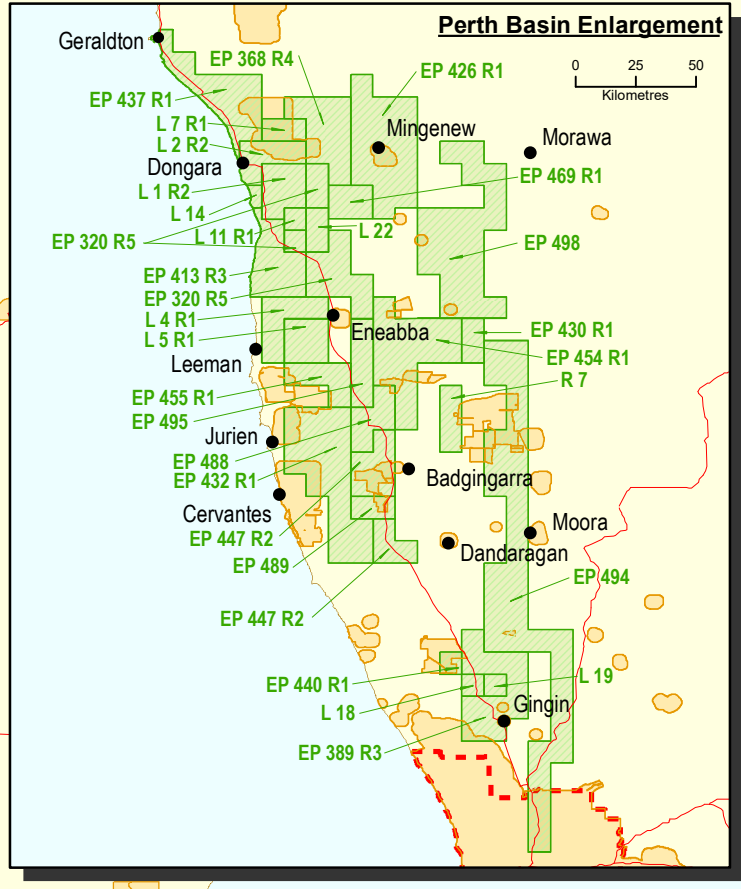
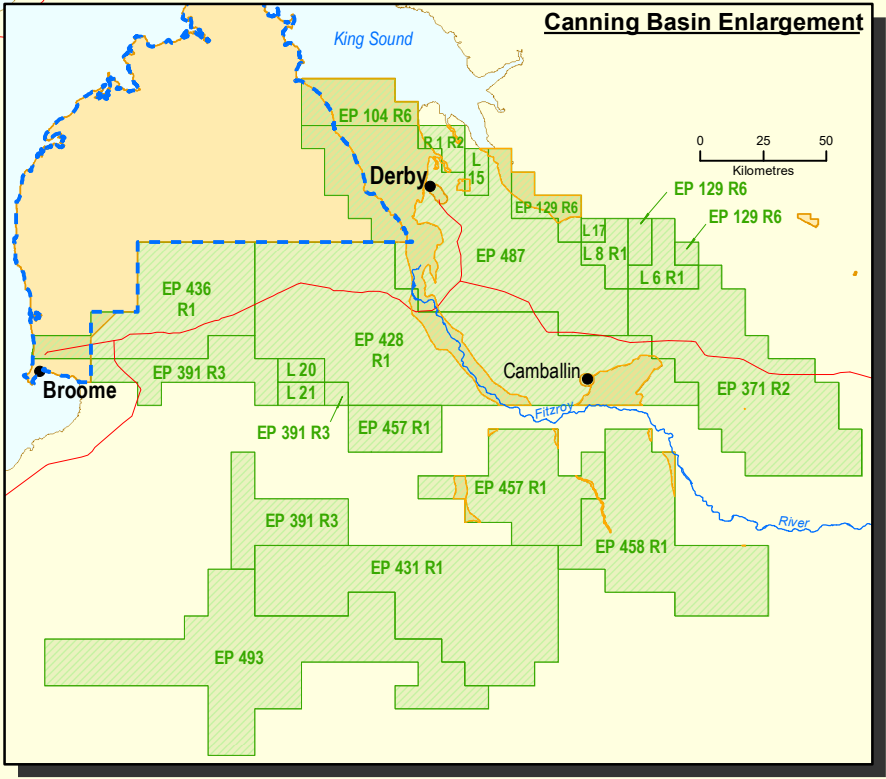
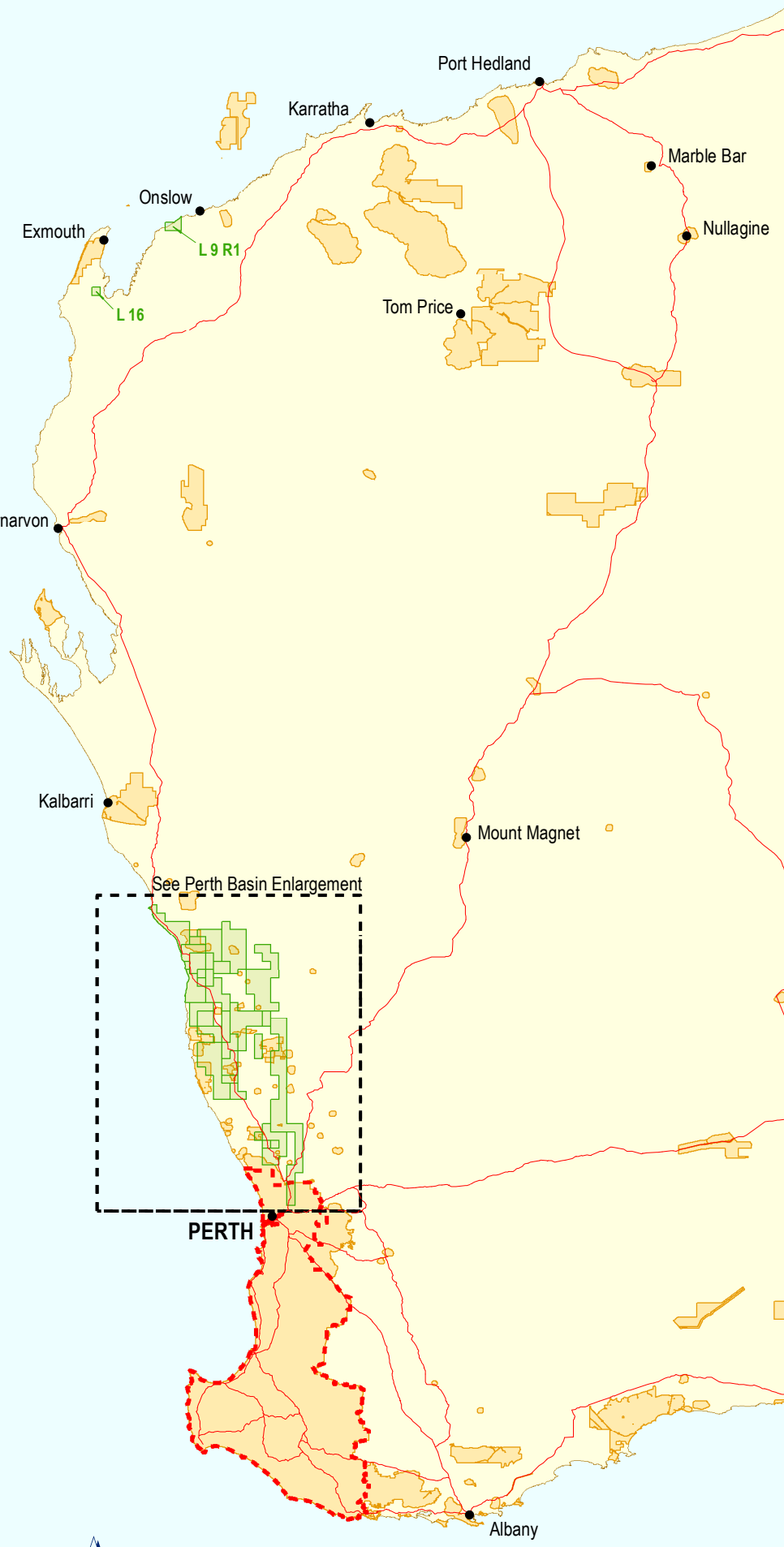
Legend

- Petroleum Titles*
- Hydraulic Fracturing Ban Area
- State Moratorium on Hydraulic Fracturing
- Dampier Peninsula Ban Boundary
- Peel, Metro and South West Ban Boundary
- Roads
- Towns

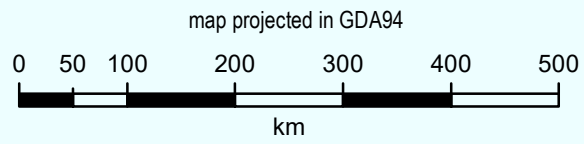
* Titles shown take into account renewal, drop off and expiries since 26 November 2018

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15°0'0"S
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Western Australia
Northern Territory
South Australia



DATA SOURCES
 Petroleum Titles sourced from Department of Mines, Industry Regulation and Safety (DMIRS)
 Roads and administration boundaries sourced from Landgate

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