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## VARIATION RECORD:

Version No.	Version Date:	Brief Description of Change:
1	June 2009	Authorised by CEO.
1.1	November 2013	All sections reviewed and updated. Authorised by CEO
2.0	July 2015	Updated for KPA, item 1 amended mission and vision statements, item 2 legislation amendment, item 3 increased to four Directors excluding the Chair and Deputy Chair, item 4 addition of Community Consultation Committee, Appendix A inserted amended waters map, and Appendices C and E updated.
2.1	June 2016	Item 2 added Port of Browse, Item 4 removed reference to the Port User Group and the charter, amended the meeting schedule for the Community Consultation Committee, Item 5 newsletter changes to Navigator, Appendix C updated Organisational Chart, Appendix E amended individual documents, policy and SoPs list. Authorised by CEO.
2.2	June 2017	Item 1 updated mission and vision statements; 4.a agency names updated, 4.b Port Logistics Working Group terms of reference updated, Appendix C Organisational Chart updated and Appendix E policies and procedures list updated.
2.3	June 2018	Item 4 KPA Community Interaction updated, item 5 non-public records updated, appendix C organisational chart updated, and appendix E public library contents updated.
2.4	June 2019	Item 2 legislation 2019 Amendment Act added and description of Port of Broome land area, item 5 office address updated to 549 Port Drive, Appendix A, C and E updated.
2.5	June 2020	Item 3 last paragraph updated re reporting lines, item 4.a updated, item 5 RPK number updated, Appendix A original boundary map removed, Appendix C organisational chart updated, Appendix E policies and procedures list updated.
2.6	June 2021	Added item 1 Objectives, item 2 updated legislative functions, item 3 amended number of Directors, updated for management structure and added Strategic Assets Plan, item 4 was item 1 and added values statement, item 5 removed reference to the Port Consultation Committee and added Kimberley ports reference, item 6 expanded personal information and added extra charges, removed appendix A and B.



2.7	June 2022	Item 2 last paragraph added as appropriate at each port, item 3 Management and Staff updated, item 5,b updated to include other port committee's, appendix A organisational chart updated, and appendix C public library items updated.
2.8	June 2023	Items 2, and 3 amended extensively to include GTE Act 2023, item 5 Harbourmaster name change, Item 6 public records slightly amended due to GTE Act 2023 and Appendix A organisational chart updated and Appendix C public library items updated.
2.9	June 2024	Vision and Mission statements updated, Appendix A organisational chart updated, Appendix C library items updated.

28/6/24



## OBJECTIVE

The objective of this statement is to ensure compliance with Sections 94 to 97 of the *Freedom of Information Act 1992*.

Kimberley Ports Authority (**KPA**) is required to prepare an Information Statement that includes:

- a statement of the structure and functions of the agency;
- a description of the kinds of documents that are usually held by the agency, and
- Freedom of Information (**FOI**) procedures for accessing documents, including contact details for KPA's FOI Officer and the address at which access applications can be lodged.

## LEGISLATION

KPA was established on 1 July 2014. KPA's predecessor Broome Port Authority was established on 1 January 2000. It is governed by various legislation and regulations including the *Port Authorities Act 1999 (PAA)* as amended by the *Ports Legislation Amendment Act 2014* and the *Ports Legislation Amendment Act 2019* ("Amendment Acts") and operates under the *Port Authorities Regulations 2001* ("Regulations"). From 1 July 2023 the *Government Trading Enterprises Act 2023* and *Regulations 2023* also apply to KPA and are to read in conjunction with PAA. KPA has the regulatory responsibility for the Kimberley ports of Derby, Wyndham and Yampi Sound since 1 July 2021. The Port of Derby is leased and managed by the Shire of Derby West Kimberley, Port of Wyndham is leased and managed by Cambridge Gulf Ltd and Port of Yampi Sound responsibilities consist of jetty licensing and maritime safety responsibilities. The *Acts and Regulations* define the functions of port authorities, the areas that they are to control and manage, the way in which they are to operate and related matters. Specific functions of KPA as stipulated under the PAA are to:

- a) facilitate trade within and through the port and plan for future growth and development of the port;
- b) undertake or arrange for activities that will encourage and facilitate the development of trade and commerce, generally for the economic benefit of the State through the use of the port and related facilities;
- c) control business and other activities in the port or in connection with the operation of the port;
- d) be responsible for the safe and efficient operation of the port;
- e) be responsible for maintaining port property;
- f) be responsible for port security, and
- g) to protect the environment of the port and minimise the impact of port operations on that environment.

KPA contributes to the wealth of the State by fulfilling its trade facilitation role and through financial contributions to the Consolidated Fund in the form of tax equivalents and dividends. KPA is required to act in accordance with prudent commercial principles, and endeavour to make a profit but unlike government departments is not financially funded through State budgets. KPA, like all agencies is subject to constraints imposed by Government, from time to time, in the form of capital investment programs and net debt arrangements.

KPA:

- a) is a body corporate with perpetual succession;
- b) may sue or be sued;
- c) is not an agent of the Crown and does not have the status, immunities and privileges of the Crown;
- d) in the management of staff is required to have regard to the standards of merit, equity and probity, as agreed in consultation with the Public Sector Commissioner, and report to the Commissioner on the observance of those standards;
- e) is required to comply with Australian Accounting Standards;
- f) is required to comply with the Income Tax Assessments Act, lodge tax returns and pay the assessed tax to the State under the National Tax Equivalent Regime (NTER);
- g) is required to pay the State the equivalent of Local Government Rates and Charges; and
- h) is required to declare and pay an annual dividend to the State based on a percentage of Profits after Tax.

In reference to Part 7 of the *GTE Act 2023* a financial report and a directors' report (Annual Report) must be prepared for each financial year by a port authority before 30 September. The Auditor General must report to the Minister on whether they are of the opinion that the financial report is in accordance with Part 7, including compliance with accounting standards and regulations; and that it is true and fair.

KPA holds various discretionary powers authorised under the *PPA*, as appropriate at each port, including: the provision and maintenance of shipping channels, navigation aids, cargo wharf, road infrastructure, seawalls and other port infrastructure, port planning, ship scheduling and berth allocation, port communications, pilotage, pilot transfers, mooring, security services, emergency response, hazardous cargo services and quarantine and waste services.

## **KPA STRUCTURE AND DECISION MAKING FUNCTIONS**

### ***Ministerial Responsibility***

Under the *GTE Act 2023* the Minister for Ports (Portfolio Minister), has the responsibility of:

- a) appointing the Board as the governing body to perform the functions, determine the policies and control the affairs of KPA;
- b) appointing Directors for periods of up to three years;
- c) may give directions to KPA with respect to the performance of its functions, and
- d) determines the remuneration and allowances paid to Directors in compliance with the Salaries and Allowances Tribunal determinations.

Under the auspices of the *GTE Act 2023* the Portfolio Minister and Treasurer have responsibilities in relation to approving financial matters including: dividends, capital works funding approvals, Statement of Expectations, Annual Performance Statements and Strategic Asset Plans, and have strategic control of KPA's operations, while leaving corporate planning and day-to-day management to the KPA Board.



**Board of Directors**

The Board is the governing body and in the name of the port authority is to perform the functions, determine policies and control the affairs of the port authority. The role of the Board of Directors as the governing body is to provide leadership, direction and oversight to KPA through corporate policies.

The Board's charter encompasses three major elements:

- a) Legal Dimension - besides the obligation for KPA to function in accordance with its own enabling legislation it must also comply with a wide range of legislation.
- b) Ethical Dimension - is required to demonstrate a high level of ethical behaviour and responsibility to customers, suppliers and the community at large as well as to its stakeholders i.e. the State of Western Australia.
- c) Entrepreneurial Dimension - is required to plan and function effectively in a competitive commercial environment.

The Board of Directors is empowered by the enabling legislation to:-

- a) Exclusive control of the port, subject to any direction given by the Portfolio Minister and Treasurer.
- b) Act in accordance with prudent commercial principles, and endeavour to make a profit.
- c) Ensure that the Port Authority performs its functions in accordance with its Statement of Expectations, Annual Performance Statement and Strategic Asset Plan as agreed between KPA, the Portfolio Minister, and Treasurer.
- d) The Strategic Asset Plan covers a forecast period of up to 10 years outlining maintenance or replacement planning for assets deemed critical through to disposable items.
- e) The Statement of Expectations covers a statement period to be set by the Portfolio Minister.
- f) The Annual Performance Statement is documented annually for a financial year period, and is required to cover a range of matters specified in *Section 74* of the *GTE Act 2023*.
- g) Appoint, remove and fix and alter the terms and conditions of employment of the Chief Executive Officer; and remuneration subject to the Salaries and Allowances Act 1975. To be able to exercise these powers, the Board must first obtain approval of the Portfolio Minister, under *Section 37* of the *GTE Act 2023*.
- h) Engage and manage staff including the determination of remuneration and terms and conditions of service of staff, to remove, suspend and discipline staff and to terminate the employment of staff. The remuneration and other terms and conditions of employment of staff are not to be less favourable than is provided for in an applicable award, order or agreement under the Commonwealth Fair Work Act 2009 and National Employment Standards and West Australian Industrial Relations Act 1979.

The Board of Directors is required by enabling legislation to inform the Portfolio Minister and Treasurer on:-

- a) A course of action that in its opinion amounts to a significant transaction or initiative; and/or is likely to be of significant public interest.
- b) The operations, financial performance and financial position of KPA and its subsidiaries, including the assets and liabilities, profits and losses and prospects of KPA and its subsidiaries.

- c) Matters that in the opinion of the Board may prevent, or significantly affect, achievement of the port authority's objectives outlined in its Annual Performance Statement; or targets under its Statement of Expectations.
- d) If, in their opinion, KPA or a subsidiary is unable to, or will be unlikely to be able to, satisfy any financial obligation, from the financial resources available or likely to be available to KPA or the subsidiary at the time the financial obligation is due.

Board matters such as terms of office, resignation or removal, appointment of the Chair and Deputy Chair, alternate directors, leave of absence, conduct and recording of meeting minutes are defined under *Part 3* of the *GTE Act 2023*. *Part 5* addresses reporting conflicts of interest and also sets out appropriate actions which must be observed in instances where the Board is to consider a matter in which a Director has a material personal interest.

The KPA Board comprises of a Chair, Deputy Chair and up to three directors. Subject to the provisions of the *GTE Act 2023* the Board may determine its own procedures such as formulating its own set of standing orders and charter for the conduct of meetings. The current Board and sub-Committees meet regularly.

### ***Chief Executive Officer***

Subject to the control of the Board, the CEO is responsible for, and has all the powers needed to administer, the day to day operations of KPA. The CEO:

- a) Has the same fiduciary relationship and duties to KPA, to act with loyalty and in good faith as a director of a company.
- b) Should act honestly in the performance of the functions of his or her office, whether within or outside the State.
- c) Should exercise the degree of care and diligence in the performance of the functions of his or her office, whether within or outside the State.
- d) Should not make improper use of their position or information acquired by virtue of his or her position as such to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to KPA.

### ***Management and staff***

KPA's Organisational Chart (*Appendix A*) outlines the management structure and reporting lines within KPA. Managers are responsible for the activities of staff within their section and meet to discuss matters of operational need, compliance issues and to coordinate activities. The COO, CFO, Governance Manager, GM Sustainability and Harbourmaster report to the CEO; on operational activities and progress of strategic goals outlined in the Statement of Expectations, Annual Performance Statement and Strategic Asset Plan. The CFO and GM Sustainability deliver reports on matters in their area of responsibility to the Board while the CEO's report covers all other significant matters.

## **VISION, MISSION AND VALUES STATEMENTS**

Kimberley Ports Authority vision is: "To be known as progressive partners who foster trade."

Kimberley Ports Authority's Mission statement is to: "To responsibly grow and connect the Kimberley."



KPA's values continue to define how the Board, management, and employees will conduct its activities, and are based on respect for employees and all who come in contact with the KPA. KPA managers and employees will ensure that due regard is afforded to:

- Safety - We make safety our number one priority;
- Respect - We treat our customers, our community and each other with respect;
- Excellence - We take pride in doing our jobs to the highest professional standard;
- Teamwork - We work as a team to achieve our common goals;
- Service - We seek to understand and serve the needs of our customers and community; and
- Environment - We care for our environment.

## **KPA COMMUNITY INTERACTION**

KPA has two committees enabling stakeholders to participate in discussions on the operations and activities undertaken by KPA.

- a) The KPA Security Committee is convened and attended by the Port Security Officer (Rohan Wadhwa as Harbourmaster) and includes the participation of the Police, Border Protection, Biosecurity, DFES and the Office of Transport Security. The Ports of Wyndham, Derby and Yampi Sound are also represented on this committee. Relevant agency stakeholders also provide input for the Port Security Plan. If a security situation arises then the group will be informed of any action undertaken by KPA that may affect them or their activities at the port. This group meets at least twice a year for consultation purposes.
- b) Community Consultation Committees - Port of Broome – meets at least three times a year with membership comprising of representatives from special interest groups, the Shire of Broome and members of the community. The purpose of the Committee is to provide feedback to KPA on management plans, mechanisms for enhanced community communication and consultation, and identifying any potential social, economic and environmental impacts on the community. A Community Consultation Committee has been established for the Port of Derby / Yampi Sound and Port of Wyndham and these committee's meet twice a year.

(Refer to the Community Consultation Committee Charters for expanded terms of reference and authority).

## **RECORDS HELD BY KPA**

All records held by KPA are filed in accordance with the Record Keeping Procedures which forms part of the Recordkeeping Plan No RKP 202005. All documents are retained in hard copy and those received from January 2009 are also retained electronically.

Documents are recorded in an electronic document recording management system (EDRMS) ELO Digital and are categorised according to the NSW State Records Keyword AAA – A Thesaurus of General Terms. Bound documents, CD's, disks, tapes and maps are retained in KPA's library.

### ***Personal Information***

KPA holds personal information only in relation to the employment of staff and this information is kept confidential and has restricted access. Employees provide personal information by completing a New Employees Details form and information can be updated by completing an Employee Update of Details form.

An individual (or the closest relative of a deceased person) has the right to apply to KPA for the amendment of personal information about that person contained in a document held by the agency if the information is inaccurate, incomplete, out of date or misleading.

An individual may request that KPA alter the information, strike out or delete information, insert information, and /or insert a note in relation to information. The individual should contact KPA's FoI Officer for access to and assistance with lodging an application.

### ***Public Records***

KPA holds a range of documents and reports some of which are public documents as mandated under the *Freedom of Information Act 1992* such as the Annual Report, Annual Performance Statement and Half Year Report. Other public documents identified as such under the *Freedom of Information Act 1992* include: the Navigator (a newsletter), Port Handbook, and Community Consultation Committee minutes, KPA Standards and Procedures, Fees and Charges, Development Guidelines, Contractors Handbook and KPA's governance and operating policies and procedures all of which are available from KPA's Public Library.

See *Appendix B* for Freedom of Information procedures and access arrangements.

### ***Public Library***

The library is located at KPA's Head Office at 549 Port Drive, Broome. Access to the Library must be authorised through written requests lodged with the Freedom of Information Officer at Kimberley Ports Authority P O Box 46, Broome 6725. The Freedom of Information Officer can be contacted on (08) 9194 3100 to respond to any queries relating to access to records and lodging applications. Requests for library access will be responded to within 14 days, after which time arrangements will be made for viewing the documents requested. Refer Appendix C for the Library contents list.

Charges for public library access:

Personal information about the applicant	No fee or charges
Application fee (for non-personal information)	\$30.00
Charge for time dealing with an application	\$30.00
Access time supervised by staff	
(per hour, or pro rata)	\$30.00
Photocopying staff time	
(per hour, or pro rata)	\$30.00
Per photocopy	.20
Transcribing from tape, film or computer	
(per hour, or pro rata)	\$30.00
Duplicating a tape, film or computer information	Actual Cost
Delivery, packaging and postage	Actual Cost



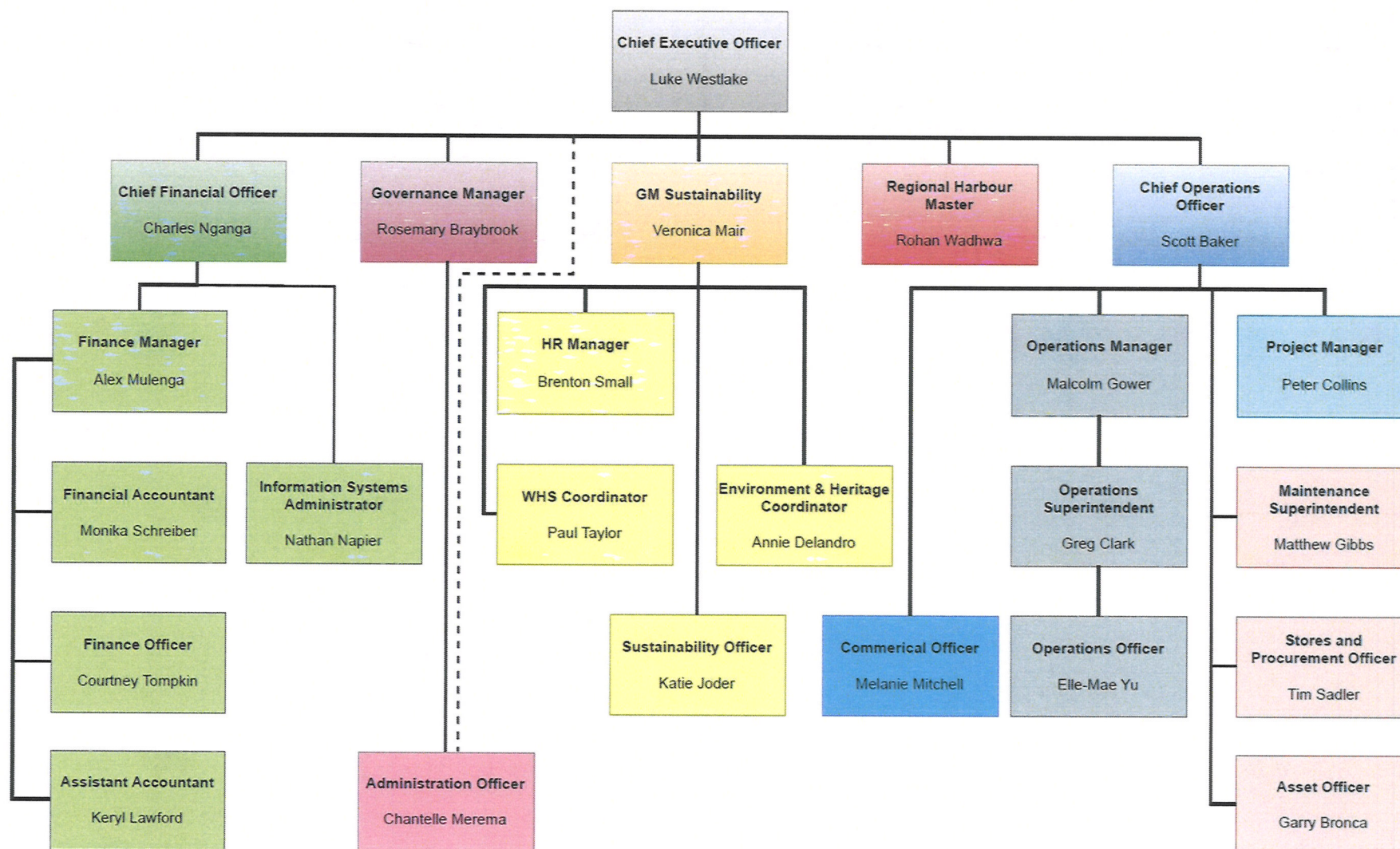
***Non-Public Records***

KPA holds contracts, agreements and leases that may be exempt from release as they are deemed to contain either trade secrets, information that has commercial value, information that could destroy or diminish that commercial value, have an adverse effect on affairs or could prejudice the future supply of information of that kind to KPA. Some information would require KPA to consult with third parties regarding the release of information concerning the business, professional, commercial or financial affairs of that third party. The Statement of Expectations, Strategic Asset Plan and Maritime Security Plan are non-public documents.

Certain documents that may relate to: personal information; public safety and property security; legal professional privilege, confidential communication; information protected by certain statutory provision or impede law enforcement or the effective operation of an agency are also exempt from Freedom of Information requests.

(Refer to *Schedule 1* Exemptions - Freedom of Information Act 1992)

## APPENDIX A - ORGANISATIONAL CHART





## **APPENDIX B - FREEDOM OF INFORMATION PROCEDURES AND ACCESS ARRANGEMENTS**

### ***FOI Operations***

It is the aim of Kimberley Ports Authority (**KPA**) to make information available promptly and at the least possible cost, and whenever possible documents will be provided outside the FOI process.

If information is not routinely available, the Freedom of Information Act 1992 provides the right to apply for documents held by KPA and to enable the public to ensure that personal information in documents is accurate, complete, up-to-date and not misleading.

### ***Freedom of Information Applications***

Access applications have to -

- be in writing;
- give enough information so that the documents requested can be identified;
- give an Australian address to which notices can be sent; and
- be lodged at the agency with the application fee.

Applications and enquiries should be addressed to the Freedom of Information Officer at Kimberley Ports Authority 549 Port Drive, Broome or posted to P O Box 46, Broome 6725. The Freedom of Information Officer can be contacted on (08) 9194 3100 to respond to any queries relating to access to records and lodging applications.

Applications will be acknowledged in writing and you will be notified of the decision within 45 days.

### ***Freedom of Information Charges***

The scale of fees and charges are set under the FOI Act Regulations, apart from the application fee for non-personal information all charges are discretionary. The charges are as follows:

- |  |             |
|--|-------------|
| • Personal information about the applicant         | No fee      |
| • Application fee (for non-personal information)   | \$30.00     |
| • Charge for time dealing with the application     |             |
| (per hour, or pro rata)                            | \$30.00     |
| • Access time supervised by staff                  |             |
| (per hour, or pro rata)                            | \$30.00     |
| • Photocopying staff time                          |             |
| (per hour, or pro rata)                            | \$30.00     |
| • Per photocopy                                    | .20         |
| • Transcribing from tape, film or computer         |             |
| (per hour, or pro rata)                            | \$30.00     |
| • Duplicating a tape, film or computer information | Actual Cost |



- Delivery, packaging and postage Actual Cost

### ***Deposits***

- An advance deposit is required of the estimated charges 25%
- A further advance deposit may be required to meet the charges for dealing with complex applications. 75%

For financially disadvantaged applicants or those issued with prescribed pensioner concession cards, the charge payable is reduced by 25%.

### ***Access Arrangements***

Access to documents can be granted by way of inspection, a copy of a document, a copy of an audio or video tape, a computer disk, a transcript of a recording, shorthand or encoded document from which words can be reproduced.

### ***Notice of Decision***

As soon as possible but, in any case, within 45 days you will be provided with a notice of decision which will include details such as: –

- the date which the decision was made;
- the name and the designation of the officer who made the decision;
- if the document is an exempt document the reasons for classifying the matter exempt, or the fact that access is given to an edited document; and
- information on the right to review and the procedures to be followed to exercise those rights.

### ***Refusal of Access***

Applicants who are dissatisfied with a decision made by KPA are entitled to ask for an **internal review** by KPA. Applications should be made in writing within 30 days of receiving the notice of decision.

You will be notified of the outcome of the review within 15 days.

If you disagree with the result you can then apply to the Information Commissioner for an **external review**. An application for an external review should be made within 60 days of receiving notice of the internal review decision.



## APPENDIX C - PUBLIC LIBRARY CONTENTS

### Individual Documents

Annual Report	Fatigue Management Plan
Interim Report	KPA Development Guidelines
Annual Performance Statement	KPA Stevedoring and Maintenance Agreement 2023
Navigator (newsletter)	KPA Mooring Procedures
Community Consultation Committee Charters and minutes	Asbestos Management Plan
Port and Terminal Handbook	Emergency Response Procedures
KPA Standards and Procedures	Marine Oil and Pollution Tactical Response Plan
Contractors' Handbook	Marine Safety Plan
KPA Fees and Charges	HSE Slipway Guidelines
Environmental Management Plan	Port of Broome Master Plan Executive Summary
Environmental Management System	Slipway Asbestos Management Plan
WHS Management Manual	Tenant Environmental Management Plan

### KPA Policy Statements

Corporate Governance Policy Statement	Environment Policy Statement
Risk Management and Business Resilience Policy statement	Work Health and Safety Policy Statement
Financial and Asset Management Policy Statement	Stakeholder Engagement Policy Statement
Information Security Policy Statement	Asset Management Policy Statement

### Port of Broome Procedures Manual

Code of Conduct	Procurement Procedure
Bullying and Harassment Procedure	Investment Procedure
Equal Employment Opportunity Procedure	Languages Services Procedure
Annual Leave Travel Entitlement Procedure	Salary Packaging Procedure
Vehicle Procedure	Cyclone Contingency Plan
Mobile Device Procedure	Computer and Communications Facilities Procedure
Business Travel Procedure	ICT Change Management Procedure
Education Assistance Procedure	ICT Security Management Procedure
Credit Card Procedures	Debt Management Procedure
Corporate Entertainment Procedure	Assets Procedure
Public Interest Disclosure Procedure	Customer Service Charter
Higher Duties Allowance Procedure	Risk Management Framework
Work Health and Safety Procedure	Sponsorship Procedure
Uniform Procedure	Recordkeeping Procedure
Alcohol and Other Drugs Procedure	Environmental Objectives Procedure
Policy Statement & Procedures Drafting, Reviewing and Dissemination Procedure	Fair Treatment Procedure
Diversity Procedure	

## Safe Operational Procedures Manual

Biosecurity Incident Response SOP	Manual Handling SOP
Crane Operations SOP	Mooring and Unmooring SOP
Cruise Gangway SOP	400kg three person counter weighted workbox SOP
Dogging and Rigging Operations SOP	Permit to Work System SOP
Equipment testing, inspection and maintenance SOP	Personal Flotation Device SOP
Fatigue Management Plan	Personal Protective Equipment SOP
Fire Watch Operations SOP	Potable Water Sampling SOP
Forklift Operations SOP	Port Tender Operations SOP
Hazardous Chemicals Handling & Storage SOP	Traffic Management Plan
Housekeeping and Waste Management SOP	Truck Loading and Unloading Operations SOP
Hazard and Incident Reporting SOP	Underdeck Trolley SOP
Hazardous Manual Tasks SOP	Vessel Loading and Discharging Operations SOP
HSE Committee Procedures	Wastewater Treatment Plant SOP
HSE Slipway Hardstand & Laydown area Guidelines	Wharf Firefighting System SOP
Lock Out / Tag Out SOP	Workbox Operations
Lifting Equipment Storage and Inspection SOP	Working at heights and over the side
Lightning Response SOP	Workplace Injury Management Procedure
Lock Out / Tag Out SOP	