

WA302\*

Metropolitan Water Supply, Sewerage, and Drainage Act 1909

## Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws 2016

Made by the Minister under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* section 146 and the *Water Agencies (Powers) Act 1984* section 34.

### 1. Citation

These by-laws are the *Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws 2016*.

### 2. Commencement

These by-laws come into operation as follows —

- (a) by-laws 1 and 2 — on the day on which these by-laws are published in the *Gazette*;
- (b) the rest of the by-laws — on the day after that day.

### 3. By-laws amended

These by-laws amend the *Metropolitan Water Supply, Sewerage and Drainage By-laws 1981*.

### 4. By-law 1.1 amended

In by-law 1.1 insert in alphabetical order:

*Aboriginal customary purpose* means —

- (a) preparing or consuming food customarily eaten by Aboriginal persons; or
- (b) preparing or using medicine customarily used by Aboriginal persons; or
- (c) engaging in artistic, ceremonial or other cultural activities customarily engaged in by Aboriginal persons; or
- (d) engaging in activities incidental to a purpose stated in paragraph (a), (b) or (c);

*designated camping site* means an area designated under by-law 4.11.2 to be a camping site for the Noongar people;

*Noongar people* means the traditional owners of the lands in the South West Settlement Area;

*registered Aboriginal site* means a place in the register maintained under the *Aboriginal Heritage Act 1972* section 38;

***South West Settlement Area*** means the area of lands described in Schedule 1 and shown, for information purposes, on the map in Schedule 2;

***special provision catchment area*** means a catchment area, or water reserve from which water can flow into an existing reservoir, within the South West Settlement Area;

**5. By-law 4.3 amended**

- (1) In by-law 4.3.4 delete “No” and insert:

Subject to by-laws 4.11.5, 4.12.2 and 4.12.3, no

- (2) Delete by-law 4.3.5 and insert:

4.3.5 Subject to by-law 4.13 —

- (a) no person is to light a fire on Crown land in a prohibited zone on a catchment area except in the fire places provided at authorised picnic sites unless with the written approval of the CEO; and
- (b) any person lighting fires at other places on a catchment area must comply with all requirements of the *Bush Fires Act 1954* or restrictions promulgated under that Act.

- (3) In by-law 4.3.6 delete “No” and insert:

Subject to by-law 4.14, no

**6. By-law 4.5 amended**

In by-law 4.5.5 delete “No” and insert:

Subject to by-laws 4.12.2 and 4.12.3, no

**7. By-laws 4.11 to 4.14 inserted**

At the end of Part 4.0 insert:

**4.11 Designated camping sites for Noongar people**

4.11.1 In this by-law —

***CALM Act land*** means land to which the *Conservation and Land Management Act 1984* applies under section 5 of that Act;

**CALM Act Minister** means the Minister to whom the administration of the *Conservation and Land Management Act 1984* is for the time being committed by the Governor;

**wellhead protection zone** —

- (a) within a pollution area — has the meaning given in by-law 5.6.1; and
  - (b) within a water reserve — means an area identified as a wellhead protection zone in the drinking water source protection plan for the water reserve published on the Department's website.
- 4.11.2 Subject to by-law 4.11.3, the Minister may, by notice published in the *Gazette*, designate all or part of a special provision catchment area to be a camping site for the Noongar people.
- 4.11.3 The Minister must not —
- (a) designate CALM Act land to be a camping site under this by-law without the written consent of the CALM Act Minister; or
  - (b) designate a prohibited zone to be a camping site under this by-law; or
  - (c) designate a wellhead protection zone within a pollution area or within a water reserve to be a camping site under this by-law.
- 4.11.4 The CEO must ensure that sufficient signs are erected and maintained in the vicinity of a designated camping site indicating that the area is a designated camping site for the Noongar people.
- 4.11.5 A person does not breach by-law 4.3.4 by camping in a special provision catchment area if the person —
- (a) is a member of the Noongar people; and
  - (b) camps in a designated camping site.

## **4.12 Customary hunting by Noongar people**

4.12.1 In this by-law —

**hand-held tool** does not include —

- (a) a firearm or any other device from which an object is discharged; or
- (b) a spear, boomerang or any other thing that is propelled from the hand;

**take** means trap, hunt or slaughter.

4.12.2 A person does not breach by-law 4.3.4 or 4.5.5 by taking an invertebrate or egg, as the case may be, in a

prohibited zone in a special provision catchment area if the person —

- (a) is a member of the Noongar people; and
- (b) does so on a registered Aboriginal site; and
- (c) does so for an Aboriginal customary purpose; and
- (d) does so only by hand or with a hand-held tool; and
- (e) in doing so does not enter into or upon a stream, reservoir or watercourse; and
- (f) in doing so does not allow a hand-held tool to enter into a stream, reservoir or watercourse; and
- (g) does not sell the invertebrate or egg.

4.12.3 A person does not breach by-law 4.3.4 or 4.5.5 by taking an invertebrate or egg, as the case may be, in a special provision catchment area, other than in a prohibited zone in that area, if the person —

- (a) is a member of the Noongar people; and
- (b) does so for an Aboriginal customary purpose; and
- (c) does so only by hand or with a hand-held tool; and
- (d) in doing so does not enter into or upon a stream, reservoir or watercourse; and
- (e) in doing so does not allow a hand-held tool to enter into a stream, reservoir or watercourse; and
- (f) does not sell the invertebrate or egg.

#### **4.13 Noongar people lighting fires for customary purposes**

A person does not need approval under by-law 4.3.5(a) to light a fire on Crown land in a prohibited zone on a special provision catchment area if the person —

- (a) is a member of the Noongar people; and
- (b) does so on a registered Aboriginal site; and
- (c) does so for an Aboriginal customary purpose; and
- (d) in doing so does not enter into or upon a stream, reservoir or watercourse.

#### **4.14 Entry to Aboriginal sites by Noongar people**

A person who enters Crown land within a prohibited zone on a special provision catchment area does not breach by-law 4.3.6 if —

- (a) the person is a member of the Noongar people; and

- (b) the person is travelling directly to or from, or is on, a registered Aboriginal site within the prohibited zone; and
- (c) while on the land, the person does not enter into or upon a stream, watercourse or reservoir.

## 8. Schedules 1 and 2 inserted

At the end of the by-laws insert:

### Schedule 1 — Description of South West Settlement Area

[bl. 1.1]

All the lands and waters contained within a line that —

- starts at the intersection of the prolongation westerly of the northern boundary of the Shire of Coorow with the low water mark, being a point on a northern boundary of native title determination application WAD6192/1998 (WC97/71) as accepted for registration on the Register of Native Title Claims on 22 August 1997;
- then continues generally easterly and generally south-easterly along the boundaries of that native title application to the intersection with native title determination application WAD6181/1998 (WC00/7) as accepted for registration on the Register of Native Title Claims on 3 July 2008;
- then continues generally easterly, generally south-easterly and westerly along the boundaries of that native title application to the intersection with native title determination application WAD6286/1998 (WC98/70) as accepted for registration on the Register of Native Title Claims on 29 September 1998;
- then continues generally southerly along the boundaries of that native title application to the intersection with the low water mark;
- then continues generally south-westerly, generally north-westerly and generally northerly along the low water mark back to the starting point,

other than any land or waters the subject of native title determination application WAD6193/1998 (WC97/72-6) as accepted for registration on the Register of Native Title Claims on 12 December 2011.

And all the islands landward of the low water mark that exist within the area contained within a line that —

- starts at the intersection of the prolongation westerly of the northern boundary of the Shire of Coorow with the low water mark;
- then continues generally southerly, generally south-easterly and generally north-easterly along the low water mark to the intersection with longitude 120.465236;
- then continues southerly to the intersection of the 3 nautical mile limit with longitude 120.465236;

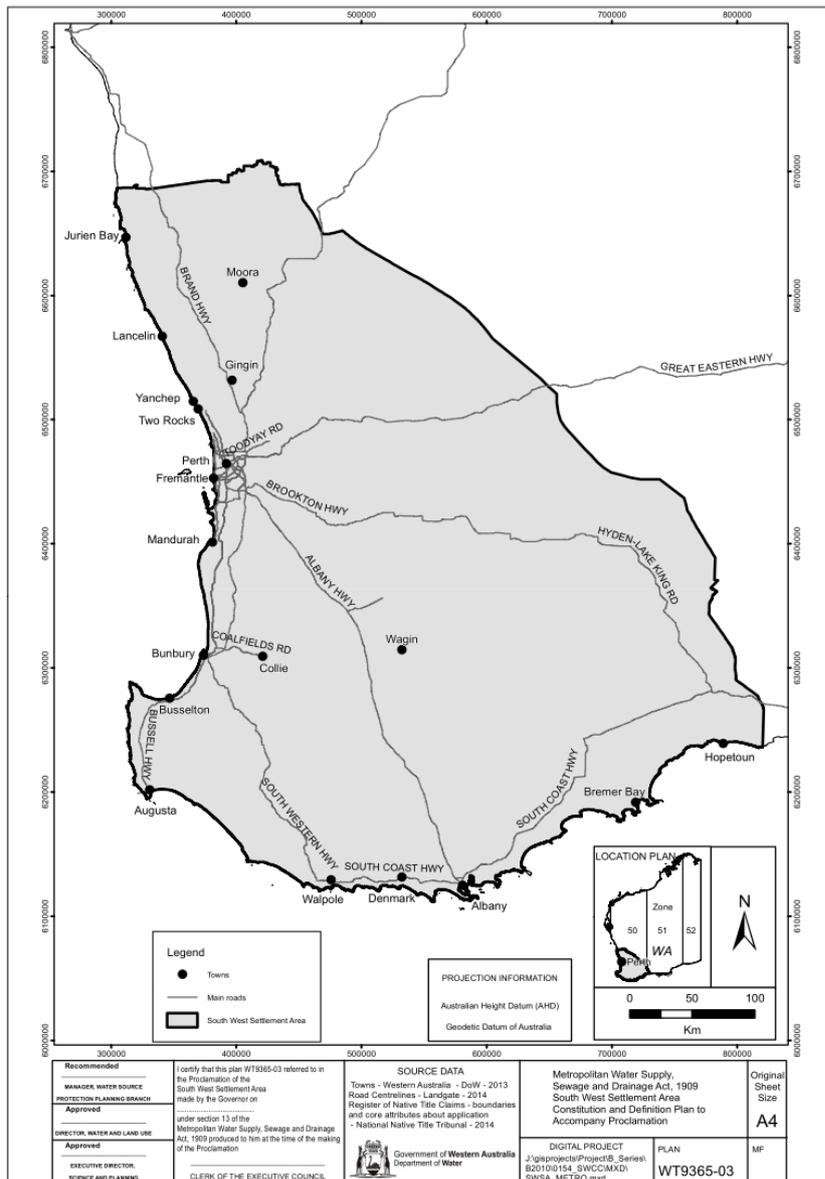
- then continues generally south-westerly, generally north-westerly and generally northerly along the 3 nautical mile limit to the prolongation westerly of the northern boundary of the Shire of Coorow;
- then continues easterly along that prolongation back to the starting point.

Notes for this Schedule:

1. The low water mark is sourced from the Spatial Cadastral Database maintained by the Western Australian Land Information Authority as at 29 October 2012.
2. Coordinate references are to Geocentric Datum of Australia 1994 (GDA94) coordinates in decimal degrees.
3. The 3 nautical mile limit is sourced from Australian Maritime Boundaries (AMB), 6th edition, released in February 2006.

**Schedule 2 — Map of South West Settlement Area**

[bl. 1.1]



M. DAVIES, Minister for Water.