



CORPORATE POLICY STATEMENT NO. 38

COMPLIANCE AND ENFORCEMENT

August 2016

1. OBJECTIVES

- Guide staff of the department in the exercise of compliance and enforcement responsibilities.
- Ensure a consistent, integrated and coordinated approach to compliance and enforcement action across all sections of Parks and Wildlife.
- Encourage a corporate and community culture of positive action, accountability, consultation and cooperation.

2. SCOPE

This policy applies to all staff of the Department of Parks and Wildlife, with particular application to authorised officers. It applies to compliance and enforcement matters regarding flora and fauna, and on lands managed by the department. Further detail on enforcement options can be found in *Corporate Guideline No. 38: Enforcement Options*.

3. CONTEXT

The Department of Parks and Wildlife has primary responsibility for managing the State's national parks, marine parks, State forests and other reserves, for conserving and protecting native fauna and flora, and for managing many aspects of the access to and use of the state's wildlife and natural areas. This includes the state's national parks, marine parks, conservation parks, riverpark, regional parks, state forests and timber reserves, nature reserves, marine nature reserves and marine management areas.

The department has statutory and regulatory responsibilities for conservation and management of the State's native fauna and flora and managing access to the lands and waters under its care and the State's biodiversity for sustainable uses. The department also has statutory planning roles with respect to the Swan Canning Development Control Area. Undertaking compliance and enforcement is essential to the management of the State's natural resources and conservation of the environment to ensure ecological sustainability.

4. LEGISLATION

The Department's responsibilities are prescribed in the following legislation, which it administers:

- *Conservation and Land Management Act 1984*;
- *Sandalwood Act 1929*;
- *Wildlife Conservation Act 1950*;
- *Swan and Canning Rivers Management Act 2006*; and
- regulations made under the above Acts.

The policy also covers the Department's statutory responsibilities under legislation administered by other government departments, including, but not limited to:

- *Bush Fires Act 1954*;
- *Biosecurity and Agricultural Management Act 2007*;
- *Animal Welfare Act 2002*;
- *Firearms Act 1973*;
- *Control of Vehicles (Off-road areas) Act 1978*; and
- Offences under other Acts as per Part 8, Division 3 of the Swan and Canning Rivers Management Act.

5. POLICY

The department will:

- 5.1 Apply legislation consistently and fairly throughout the State, across all sectors of the community, industry and government.
- 5.2 Encourage compliance with relevant legislation through providing information and education to the community and industry.
- 5.3 Respond appropriately to, and deal promptly with, reported or detected offences against relevant legislation.
- 5.4 Undertake enforcement action in a manner that is:
 - lawful;
 - fair, impartial, ethical and respectful;
 - proportionate to the magnitude and/or environmental impact of the alleged offence; and
 - within officers', and the department's, authority.
- 5.5 Consider prosecution:
 - 5.5.1 where it is the appropriate response to a particular circumstance;
 - 5.5.2 to protect the environment and the community; and/or
 - 5.5.3 to provide a mechanism for courts to impose appropriate penalties and/or restitution orders on offenders where their actions have caused loss or damage to the environment or property.

6. STANDARDS

Compliance and enforcement activities will be undertaken in accordance with the principles of natural justice and procedural fairness. The Ombudsman Western Australia's *Procedural Fairness (Natural Justice) Guideline* (2009) provides further information on these principles and how they should be applied in investigations and decision making. It is available at:

<http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Procedural-fairness-guidelines.pdf>.

Guidance on establishing a *prima facie* case and evaluating the public interest in proceeding to prosecute, including determining if there is a reasonable prospect of conviction and a number of other relevant factors is provided in the Office of the Director of Public Prosecutions' *Statement of Prosecution Policy and Guidelines* (2005). It is available at:

http://www.dpp.wa.gov.au/files/statement_prosecution_policy2005.pdf.

7. POLICY IMPLEMENTATION STRATEGIES

The department will:

- 7.1 Prepare corporate guidelines, compliance plans, standard operating procedures and other supporting documents, which will be used by staff in implementing this policy.
- 7.2 Prepare, maintain and update information on the department's website and through other media and opportunities to inform the community of their obligations under legislation administered by the department.
- 7.3 Use the enforcement tool or combination of tools most appropriate to each situation, from the options available under each piece of legislation.
- 7.4 Make decisions on enforcement action in a timely fashion, while retaining the flexibility to respond to additional information or changes in circumstances.
- 7.5 Have regard to the likelihood that the desired outcome will be achieved in a cost effective manner.
- 7.6 Ensure relevant departmental staff are appropriately trained to understand and interpret legislation and fully understand the responsibilities and duties of an authorised officer.

8. CUSTODIAN

Director Science and Conservation.

9. PUBLICATION

This policy will be made available on the department's website and intranet.

10. KEY WORDS

Authorised officer, compliance, enforcement, environment, legislation, natural justice, offence, offender, *prima facie*, procedural fairness, prosecution.

10. REVIEW

This policy will be reviewed no later than August 2021.

11. DIRECTOR GENERAL APPROVAL

Approved by



Jim Sharp
DIRECTOR GENERAL

Effective date: 9 August 2016