



## CORPORATE POLICY STATEMENT NO. 94

### ABORIGINAL OUTSTATIONS, CAMPS AND SETTLEMENTS

April 2016

#### 1. OBJECTIVE

To provide direction regarding allowing Aboriginal people to stay in outstations, camps and settlements on land to which the *Conservation and Land Management Act 1984* applies (CALM Act land).

#### 2. SCOPE

This policy will provide guidance on how to manage 'living on country' activities as part of joint management negotiations and formalises the approach to managing existing or proposed Aboriginal outstations on CALM Act land. It will apply to all CALM Act land, but not to land managed under the *Swan and Canning Rivers Management Act 2006*.

#### 3. CONTEXT

The Department of Parks and Wildlife (the department) recognises that Aboriginal people are the traditional custodians of the lands and waters that it manages, and supports Aboriginal people connecting with country. The ability to carry out cultural activities, such as visiting and camping on country, is an important part of Aboriginal culture and connection to the land.

The department is responsible for the management of a wide range of lands and waters on behalf of the State and recognises there is a need to accommodate Aboriginal communities, visitation and camping on CALM Act land.

This policy complements Corporate Policy Statement No. 86 – Aboriginal Customary Activities and Corporate Guideline No. 22 - Aboriginal Customary Activities.

The *State Planning Policy 3.2 Aboriginal Settlements* defines Aboriginal settlements and identifies the support provided in their development.

#### Definitions

##### *Aboriginal settlements*

The *State Planning Policy 3.2 Aboriginal Settlements* defines Aboriginal settlements as being:

“a discrete place that is not contiguous with a gazetted town, is inhabited or intended to be inhabited wholly or principally by persons of Aboriginal descent, as defined under the *Aboriginal Affairs Planning Authority Act 1972*, and which has no less than 5 domestic dwellings and/or is supported by essential services that are provided by one or more state agency(s)”.

The Department of Planning does not provide endorsed layout plans for Aboriginal communities that do not meet this criterion. Other Aboriginal areas that may be occupied from time to time, such as outstations and cultural camping areas do not conform to the definition of an Aboriginal settlement.

#### *Aboriginal outstations*

Outstations are areas of traditional lands that traditional owners return to and (generally) temporarily or seasonally live and camp for cultural, spiritual, economic, or land management reasons. In relation to conservation reserves managed solely or jointly by the department, the term 'outstations' does not include structures which are occupied permanently by residents where substantial infrastructure and essential services are required, which are more akin to Aboriginal settlements (see above).

#### *Cultural camping*

When Aboriginal people camp in a park or reserve for customary purposes it is usually defined as cultural camping. Cultural camping involves camping outside designated camp sites for a prolonged period (up to 28 consecutive days or up to 84 consecutive days for ceremonial purposes).

## **4. LEGISLATION**

The legislation listed below has relevance to this policy:

*Aboriginal Affairs Planning Authority Act 1972*

*Aboriginal Communities Act 1979*

*Land Administration Act 1997*

*Planning and Development Act 2005*

*Native Title Act 1993 (Cth).*

## **5. POLICY**

### **Aboriginal settlements**

- 5.1 Aboriginal settlements are more akin to town site developments and as such are not compatible with lands managed by the department under the CALM Act<sup>1</sup>. Where appropriate, such areas are to be excluded from parks and reserves (through excision and tenure change).
- 5.2 All Aboriginal settlements proposed on CALM Act land are to have an endorsed layout plan that comprises a map-set, background report and provisions. Consultation is to be undertaken with the resident community, traditional owners, local government and relevant key agencies and stakeholders in the preparation of layout plans. Once this has been endorsed, the boundaries of the layout plan will confirm the area to be excised from CALM Act land.

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<sup>1</sup> A portion of the Great Victoria Desert Nature Reserve called Tjuntjunjara has been proposed for excision from the reserve. The portion is home to members of the Paupiyala Tjurutja Aboriginal Corporation and the community meets the definition of an Aboriginal settlement under State Planning Policy 3.2. The *Goldfields Region: Regional Management Plan No. 27 1994 – 2004* recommended the excision and change of tenure.

### **Aboriginal outstations**

- 5.3 Under sections 97 and 100 of the CALM Act, the CEO may grant leases on CALM Act land (which excludes private land managed under section 8A agreements) on such terms and conditions as the CEO thinks fit, following consultation with the Conservation and Parks Commission of Western Australia and with the approval of the Minister for Environment. Aboriginal outstations will generally be dealt with via a lease.
- 5.4 The development of outstations and the activities conducted within them are subject to the provisions of the relevant CALM Act management plan, the deliberations of any relevant joint management body and the general conditions of the CALM Act and Conservation and Land Management Regulations 2002 (CALM Regulations), and will be considered on a case-by-case basis.
- 5.5 Consultation with the relevant joint management body and other stakeholders, and planning and environmental assessments are required before a site is recommended as an outstation. It is intended that any leases for outstations would minimise the impact on park or reserve values.
- 5.6 Where a CALM Act management plan exists for a particular reserve, such a plan determines whether or not a lease or licence may be issued<sup>2</sup>. If there is no management plan for a reserve, a lease or licence cannot be issued unless the activity proposed for the reserve is deemed to be either a necessary operation (in the case of nature reserves or marine nature reserves), or a compatible operation (in the case of national parks, conservation parks, marine parks, marine management areas) or in accordance with the purpose of the reserve (in the case of section 5(1)(g) and 5(1)(h) reserves, State forest and timber reserves).
- 5.7 Aboriginal outstation proposals may be approved where it can be demonstrated that no additional costs or liabilities for the provision of essential services will be borne by the department. As per normal lease conditions, the lessee is responsible for the maintenance of any facilities and accepts all liabilities.

### **Cultural camping**

- 5.8 Aboriginal people can camp in most places in a park or reserve for customary purposes (referred to as 'cultural camping') pursuant to the CALM Act and CALM Regulations. Cultural camping further than 500 metres from recreational land (i.e. car parks, sealed roads, camping areas or visitor areas) can take place for up to 28 consecutive days, or 84 consecutive days if the camping is for a ceremonial purpose, such as law business or funerals. Aboriginal people have the flexibility to undertake cultural camping for longer periods, or within 500 metres of recreational land, provided they have written permission from the department.

## **6. POLICY IMPLEMENTATION STRATEGIES**

- 6.1 Where required, the department will assist Aboriginal communities to determine the best outcome in terms of aspirations or native title rights they may have in regard to living areas on land managed under the CALM Act.

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<sup>2</sup> Outstations exist in Karijini and Purnululu national parks and have been established by way of a lease agreement. The management plans for these two national parks refer to 'Living Area Leases'. The *Millstream Chichester National Park and Mungaroona Range Nature Reserve Management Plan No. 69 (2011)* also includes provisions for 'Indigenous Living Areas'

6.2 The department will work with other agencies such as Department of the Premier and Cabinet and Department of Lands to achieve excisions from reserves where required.

**7. CUSTODIAN**

Director Parks and Visitor Services.

**8. PUBLICATION**

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

**9. KEY WORDS**

Aboriginal community; Aboriginal settlements; Aboriginal outstations; cultural camping; living area leases.

**10. REVIEW**

This policy will be reviewed no later than April 2021.

**11. DIRECTOR GENERAL APPROVAL**

Approved by



Jim Sharp  
DIRECTOR GENERAL

Effective date: 22 April 2016