



## **POLICY STATEMENT No. 91**

### **BURIAL OF ABORIGINAL PEOPLE ON CALM LAND**

**November 2013**

#### **1. OBJECTIVE**

To provide a means for relatives of Aboriginal persons to bury their deceased on lands and waters to which the *Conservation and Land Management Act 1984* (CALM Act) applies (CALM land) in order to fulfil cultural obligations consistent with the conservation of the area's natural and cultural heritage.

#### **2. SCOPE**

This policy will apply to all CALM land. Sanctioning burials will permit Aboriginal people to honour their deceased by laying them to rest in a culturally appropriate manner outside of a State cemetery, but consistent with the *Cemeteries Act 1986*.

#### **3. CONTEXT**

The Department of Parks and Wildlife (DPaW) 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 requests for culturally appropriate burials for Aboriginal people on these lands.

The *Cemeteries Act 1986* authorises burials in Western Australia and is administered by the Department of Local Government and Communities. This Act stipulates that a dead body must be buried in a cemetery unless the Minister for Local Government or his/her delegate consents to a burial on land that is not a cemetery. The Minister has the discretion to consent to a burial in a place that is not a cemetery if (1) the burial is done in a place that is visibly set apart and (2) the burial place is distinguishable as a burial place.

#### **4. LEGISLATION**

*Conservation and Land Management Act 1984*

*Land Administration Act 1997*

*Cemeteries Act 1986*

*Aboriginal Heritage Act 1972*

*Native Title Act 1993 (Cth)*

*Births, Deaths and Marriages Registration Act 1998*

## 5. POLICY

- 5.1 Requests for burial of Aboriginal people on CALM land will be treated with dignity and compassion.
- 5.2 DPaW will enter into discussions with Aboriginal people in relation to requests for burials on CALM land and will respect the values and rights of Aboriginal people when culturally sensitive information or activities are disclosed.
- 5.3 Requests for burial of Aboriginal people will be assessed on a case-by-case basis. Written consent will be given for an Aboriginal burial for cultural purposes on CALM land where:
  - 5.3.1 The deceased was an Aboriginal person who had a traditional or long-standing affiliation with the area in which the body is to be buried.
  - 5.3.2 Written approval has been given for the burial from the next-of-kin and the registered native title holders (Prescribed Body Corporate) to ensure cultural laws and practices are observed.
  - 5.3.3 The burial place is one of cultural or spiritual significance and is visibly set apart for, and is distinguishable as, a burial place.
  - 5.3.4 The burial can take place with minimal disturbance to the land in accordance with conservation values and public safety provisions.
- 5.4 Approval for the burial is required from the Minister for Local Government or his/her delegate.
- 5.5 DPaW's aim is to strengthen its relationship and capacity to work with Aboriginal people. The department shall, wherever possible, and in accordance with the *Conservation and Land Management Regulations 2002*, assist and facilitate the needs and aspirations of Aboriginal people for burials, consistent with customary purposes on CALM land.

## 6. POLICY IMPLEMENTATION STRATEGIES

- 6.1 Staff will advise that as a general rule burials are not permitted on CALM land.
- 6.2 Burials are not conducted in public view or where visitors are involved in recreation activities, however if a burial is requested where recreational pursuits are regularly undertaken, alternative locations for the burial may be considered.
- 6.3 Aboriginal cultural obligations may require the location of a burial site to be confidential, taking place in a remote area, therefore this information should not be released to the public.
- 6.4 Each region and district office will have a record of all burial requests, the name of the family members requesting the burial and the approximate location of the proposed burial. This information will be provided to the DPaW Land Unit once a burial is completed, so a central register can be compiled to include details of burials from all regional offices.
- 6.5 Conditions may be attached to an approval if necessary in order to take into account other users of the land. These conditions may also address issues

such as transportation of the body (with possible notification to local police) and depth of the burial.

**6.6 Additional procedures:**

6.6.1 Issues relating to burials on jointly managed lands should be discussed at park council level.

6.6.2 Caves or rock shelters can be considered as burial places for Aboriginal people.

6.6.3 Smoking ceremonies are widely conducted and are considered appropriate under Corporate Guidelines No. 22 - Guidelines regarding Aboriginal customary activities.

**7. CUSTODIAN**

Director Parks and Visitor Services.

**8. KEY WORDS**

Aboriginal – burial – traditional burial practice.

**9. REVIEW**

This policy will be reviewed no later than 30 November 2018.

**10. DIRECTOR GENERAL APPROVAL**

Approved by



Jim Sharp  
ACTING DIRECTOR GENERAL

Effective date 22/11/13