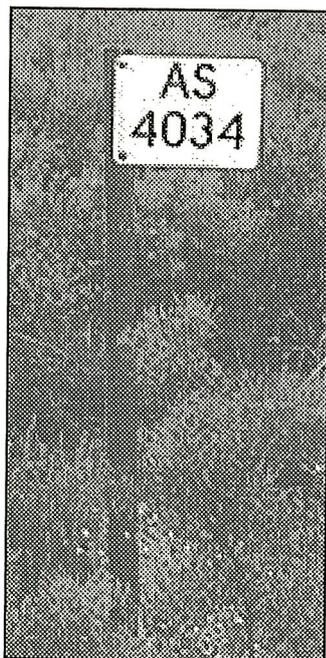


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# POSITION PAPER ON THE TRADING AND ADMINISTRATION OF APIARY SITES ON CROWN LAND AND LAND MANAGED BY THE DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT



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## GENERAL

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In 1997 the State Government commenced a review of the CALM Act and subsidiary legislation under the National Competition Legislation Review. Consulting firm ERM Mitchell McCotter conducted the review and recommended that two Regulations in the Forest Management Regulations 1993 be repealed because they are not in the public interest (ie, they restrict access and use to those that may value access to apiary sites more highly).

The regulations relate to a requirement to:

- Be registered as a Beekeeper under the Beekeepers Act and hold more than 25 hives in order to obtain an apiary site permit (Regulation 73(2));
- Only hold a maximum 5 apiary sites for every 50 hives (South West Zone) and 4 sites for every 50 hives (Remote Zone) (Regulation 73(3)).

The consultants also recommended that consideration be given to establishing mechanisms for the trading of apiary sites.

In January 2000 CALM released a discussion paper on the possible trading of apiary sites and other issues. Public submissions were received and analysed. Following this, the Department of Conservation and Land Management made recommendations to the Minister for the Environment and Heritage.

The Minister while supporting the recommendations has asked CALM to prepare a position paper relating to the matter of site trading and other consequential issues resulting from site trading and other issues that would improve the overall administration and efficiency of apiary site management on Crown land in Western Australia.

The key issues that require consideration are:

- ❖ **Site Trading**  
Should site trading be introduced and if so what is the fairest, efficient and most practical method of achieving site trading? Should beekeepers now be required to tender for the rights to apiary sites?
- ❖ **Royalties**  
Should royalty payments be implemented as required under the Forest Management Regulations?
- ❖ **Tenure**  
What is the most appropriate form of tenure and term of permit?
- ❖ **Compensation**  
Should permit holders be eligible for compensation if a site permit is cancelled or honey production is disrupted because of forest/park operations?
- ❖ **Rental Zones**  
Does the current zoning system (that creates a differential rental system) require revision/modification?
- ❖ **Rental Levels**  
How should rentals be set and who should set them?
- ❖ **Security of Tenure**  
What length of tenure will beekeepers be afforded given that sites will attain a value and be traded? Security of investment is a key consideration for beekeepers and the honey packers.
- ❖ **Conservation and Land Management Act and Regulations**  
What changes to legislation and regulation are required?

## 1. SITE TRADING

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The beekeeping industry is essentially a stable industry that has been in existence for over one hundred years. Most of the sites suitable for apiculture in the State are occupied and the scope for wholesale changes in ownership and distribution of sites is very limited. The industry is also well served by an established and efficient honey processing, marketing and distribution system. Industry support and development is provided and well supported through the Department of Agriculture. The Department of Conservation and Land Management accepts that the apiary industry in Western Australia is a mature industry and capable of adopting a site trading system capable of withstanding the threat of internal and external forces destabilising the industry.

There are several benefits to be derived from site trading:

- rationalisation of site ownership;
- lead to improved efficiency and utilisation of a limited resource;
- legalise the current practice of "transferring" sites when a business is sold;
- allow sites to be bought without having to own/buy bees;
- add value to their sites and business;
- provide greater security;
- provide the opportunity to become a more competitive industry;
- assist new and younger beekeepers to enter the industry.

It is therefore proposed that site trading be permitted under the following conditions.

1. A permit holder can sell or trade permits by way of a site transfer to any person or organisation. (CALM will advise potential purchasers of permits that if they intend to keep bees the Department of Agriculture requires them to be registered under the Beekeepers Act, and CALM will provide the Department of Agriculture with a regular update of CALM/Crown land permit holders.)
2. Site trading will be subject to the approval of the Executive Director of CALM (whose approval will not be unreasonable withheld).
3. Site trading will be subject to a standard site transfer fee.
4. A new zone will be created for the northern sandplain area.
5. Existing Regulations relating to cancellation and compensation will be retained
6. All sites traded will be subject to Stamp Duty and will require full disclosure of the sale price.

### Summary

Beekeepers be able to trade sites with any person or business entity. Sites will be utilised only for beekeeping purposes. A person will still need to be registered as a beekeeper if they intend to place bees on the site.

## 2. MECHANISM FOR TRADING

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The beekeeping industry is unanimous that the trading of sites should commence by confirming the current "ownership" of site permits. The option to declare sites vacant and allow beekeepers to bid for sites through a tender or auction mechanism is strongly opposed by beekeepers.

It is clear that a substantial administrative exercise would be required of CALM to undertake the task of tendering sites. Considerable resources would need to be applied to the task and the implementation contains numerous transitional difficulties.

The tendering option is not supported as the costs outweigh the benefits. Retention of the status quo (ie, maintain current ownership) will allow beekeepers to build on benefits of the current system and make new gains based on private transactions between existing beekeepers and potentially with other market players. It will maintain stability in the industry.

Subject to the revocation of Regulations 73(2) and 73(3) the ownership of all sites the subject of a current management plan will be confirmed to the current permit holders. Sites not the subject of a current management plan will only be renewed for the period when a management plan is expected to be completed or for five years, which ever is the lesser period.

In the event that new sites become available or are relinquished in favor of the State, a tender will determine the ownership of the site.

In the case of the death of a beekeeper holding permits, a site permit becomes the property of the estate and is tradable.

### Summary

Site ownership to be conferred on current site holders at no additional cost. Permit holders will be free to trade sites from that time on. Pool sites will be made available through a tender system.

### **3. ROYALTIES**

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It is not intended to impose a separate royalty payment based on honey production. It is clear that a honey royalty, based on production is not easily measurable or transparent. The movement of hives between private sites and Crown sites makes it impractical to quantify the precise production levels for individual public land sites and would therefore compromise the basis for determining royalty payments and render the system open to falsification.

Instead annual rentals will be reviewed for the existing zones and a new zone created for the sandplain area with a rental that reflects its important commercial value.

#### **Summary**

A direct royalty payment will not apply to apiary sites. Rather, site productivity (site values) will be reflected in the scaled rentals determined for each of the rental zones.

### **4. TENURE**

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It is considered reasonable for beekeepers to have sufficient tenure to recoup the cost of sites purchased through trading and to allow appropriate levels of investment in their business. Longer tenure will facilitate trading and add value to permits.

It is proposed that the Forest Management Regulations be amended to allow for a permit to be issued for up to five (5) years with a renewal for a further five (5) years, subject to the permit holder:-

- not being convicted of an offence against the Act or the regulations, or
- not having obtained the permit by fraud or deception, or
- not having breached licence condition(s) or CALM regulations during the initial period.

And

- a management plan has not determined that the site should be cancelled.

It is necessary for the Department to retain the power to cancel sites for management and nature conservation reasons according to clear criteria and a process where sites are proposed for cancellation. This will provide opportunity for comment and planning for beekeepers and ensure sites are purchased on the basis of current and best available information.

As long as a permit holder can demonstrate an adherence to licence conditions and regulations it is

expected that the permit will be automatically renewed upon expiry.

#### **Summary**

A five (5) year permit with a renewal period of a further five (5) year period is recommended to the Minister. The Forest Management Regulations be amended to reflect this change. Draft guidelines will be prepared on a process for cancelling sites.

### **5. COMPENSATION**

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Some beekeepers argue that under a site trading situation, compensation should be payable in the event that a permit is cancelled by the Department or forest operations affect their honey production. Beekeepers have been advised that compensation will not be payable unless beekeepers are willing to purchase sites through a tender system.

The current Regulations (80(1) and 80(3) expressly exclude the payment of compensation if a permit is cancelled:

- because the site is required for forestry purposes;
- or for any purpose of public utility or convenience;
- or is not being used to its best advantage.

These regulations will be retained and expanded.

The regulations will be amended to include cancellation for the following reasons:-

- if the site is determined by a management plan to be unacceptable;
- if the site rental has not been paid.

The Forest Management Regulations also exclude compensation for damage arising from the carrying out of the following operations:

- felling, cutting and removal of timber and other forest produce from the site;
- the construction or maintenance of firebreaks by clearing, burning or any other method;
- the carrying out of managed burning operations by the Department on the site or elsewhere.

These regulations will be retained and amended where necessary to protect the State against claims.

#### **Summary**

It is proposed that the intent of the existing Regulations be retained. Compensation not to be paid in the event of site cancellation or site disturbance.

## 6. RENTAL ZONES

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It is recognised that some sites/locations are more highly productive than other areas and therefore are more highly valued. It is apparent that the current rental system based on a two-zone approach is crude and in some cases inequitable as it is not sensitive enough to adequately equate the value of a site with a commensurate rental. It is likely that some beekeepers with less valued sites are subsidising beekeepers with higher valued sites, as the same rental rate is paid.

While it is not practical or cost effective to value each site and determine rentals for individual sites there is scope to modify the existing zone boundaries to better reflect the relative value of honey producing areas.

A new zone is to be created for the sandplain country and be known as the Northern Zone. It is proposed that the southern boundary of the zone will commence at Burns Beach Road, Burns Beach and travel east to Clarkson Ave, Pinjar Road and Neaves Road, bounded in the east by the current Remote Zone boundary. A rental of between \$150 and \$180 per site per annum will apply to this zone. The final figure to be determined after consultation with the industry and the Valuer Generals Office.

Amendments to the Regulations will be required to create the Northern Zone.

### Summary

A new rental zone be created for the northern sandplain area. Current rentals to be reviewed in conjunction with the setting of a rental for the new zone. The Minister to approve all rentals.

## 7. RENTAL

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CALM currently achieves around 90% cost recovery on apiary site management inclusive of administration and field operations but excluding ongoing research and monitoring. The beekeeping industry understands that full cost recovery of fees is required and it is important that the cost of ongoing monitoring and research is included. The issue of full cost recovery will be assessed during the rental review.

### Summary

The apiary site rental structure will reflect full cost recovery. A rent review will commence immediately in consultation with the industry.

## 8. CALM ACT AND REGULATIONS

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The Forest Management Regulations are outdated and inadequate in meeting obligations to provide effective management of beekeeping on Crown and CALM managed land. Subject to Cabinet's endorsement of ERM's Legislation Review Report, draft amendments to the Regulations will be prepared.

### Summary

There is an urgent need to develop a comprehensive set of apiary management regulations to cover all tenures of CALM managed and Crown land. In consultation with the industry, CALM will review, amend or replace as appropriate the regulations for the management of beekeeping on public lands.

## MAKING A SUBMISSION

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This position paper is an opportunity to provide information, express your opinion, suggest alternatives and have a say on the proposal to remove certain regulations pertaining to apiary site management and the trading of apiary sites.

### What Makes an Effective Submission?

To ensure your submission is effective as possible:

- make it clear and concise;
- list your points according to the subject sections in the paper;
- describe briefly each subject or issue you wish to discuss;
- say whether you agree or disagree with any of the information provided in the paper and clearly state your reasons (particularly if you disagree) and give sources of information where possible;
- suggest alternative options/approaches to deal with the issue with which you may disagree.

Each submission is important, but those that give reasons for concerns, give support where appropriate and offer information and constructive suggestions are more useful.

### What Happens to your Submission?

All submissions will be summarised according to the topics outlined in the paper. An analysis and summary of submissions will be forwarded to the Minister for the Environment for consideration. If a submission is marked "CONFIDENTIAL" the author will remain anonymous.

**Deadline**

Submissions are welcome for a 3 month period following the public release of the paper. (27 February 2002)  
For inquiries please phone (08) 9334 0207.

**Where to Send Your Submission**

Written submissions should be sent to:

Executive Director  
Department of Conservation and Land Management  
Locked Bag 104  
Bentley Delivery Centre WA 6983

Attention: Manager, Park Policy and Tourism