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Guide to
Aboriginal
customary activities
on
DEC-managed
lands and waters

December 2012

*working together
steady steady*



Department of
Environment and Conservation

Our environment, our future 

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Contents

1 INTRODUCTION	1	Hunting and gathering	7
2 GUIDELINES FOR ACTIVITIES	2	Applying for a firearms licence	7
General information	2	Caring and preserving	7
Who is considered Aboriginal?	2	Sanctuary areas and marine nature reserves	7
Fees on DEC-managed lands	2	Taking to sell	7
Written permissions	2	Fishing	8
Local area arrangements	2	Firewood	8
Some new terms	2	Other information	8
Access	3	Native title and customary protocols	8
Prohibited areas	3	Areas under a joint management agreement	8
Locked gates	3	3 FREQUENTLY ASKED QUESTIONS AND ANSWERS	9
Mining areas and lease areas	3	General	9
Logging coupes	3	Access	11
Temporary control areas	3	Fire	12
Water catchment areas	4	Camping	13
Emergency measures	4	Hunting and gathering	14
Cars	4	4 GLOSSARY OF TERMS	15
Wilderness areas or limited access areas	4	5 INFORMATION RESOURCES	18
Disease risk areas	5	Helpful contacts	18
Dogs	5	Emergency information	18
Camping	6		
Fire	6		
Prescribed burning	6		

1 INTRODUCTION

This guide has been developed by the Department of Environment and Conservation (DEC) to provide guidance for Aboriginal people who wish to practise customary activities on DEC-managed lands and waters. DEC supports Aboriginal people in connecting with their ancestral lands and recognises that most customary activities can be carried out on DEC-managed land without detriment to conservation and public safety.

More information on practising customary activities on DEC-managed lands and waters, as well as frequently asked questions, can be found on the department's website at www.dec.wa.gov.au/aca. A brochure on customary activities is also available from DEC offices across the state.

A glossary of common terms used in this guide can be found on page 15.

Acknowledgment of traditional custodianship

DEC acknowledges that Aboriginal people are the traditional custodians of the lands and waters that it manages and of the land on which it conducts its business. Aboriginal people have more than 40,000 years of experience caring for country and respecting the environment.

DEC recognises that the ability for Aboriginal people to access country and carry out customary activities is an important part of Aboriginal culture and connection to the land. The *Aboriginal Customary Laws Final Report* by the WA Law Reform Commission in 2006 summarises its importance as:

"... expresses the vital linkage of Aboriginal people to their country, reinforces their spiritual beliefs governing their existence and responsibility for their land, and provides a means for passing on social and cultural knowledge to their children."

Customary activities

Recent changes to the law have extended the opportunities for Aboriginal people to access DEC-managed lands and waters to carry out customary activities. Aboriginal customary activities, when referenced in this document, refer to the cultural activities that Aboriginal people are allowed to do under legislation for customary purposes.

Activities are considered to be done for a customary purpose if they involve traditional practices to do with:

- making and eating food
- making and using medicine
- practising artistic, ceremonial or other customary activities
- doing other things involved with any of the above; for example, using water and other natural resources such as ochre, stones and soil for ceremonies.

No activity is considered customary if it is done for financial gain or reward.

The types of customary activities Aboriginal people are now able to do on DEC-managed lands and waters include:

- camping for up to 28 days outside designated camping sites and up to three months for ceremonial events
- lighting campfires or fires for smoking ceremonies
- undertaking ceremonial activities, including taking ochre or water, creating or maintaining rock art, moving natural features and disturbing the ground and vegetation
- using boats on rivers and lakes in nature reserves and in marine reserves
- hunting and gathering food and medicine
- entering restricted caves
- accessing additional areas with vehicles
- bringing dogs into additional areas.

2 GUIDELINES FOR ACTIVITIES

General information

Who is considered Aboriginal?

In the *Conservation and Land Management Act 1984* (CALM Act) and the *Wildlife Conservation Act 1950* (WC Act) an Aboriginal person is considered to be a person wholly or partly descended from the original inhabitants of Australia. Aboriginal people may invite non-Aboriginal friends and family members to practise customary activities, provided it is for an Aboriginal customary purpose.

Fees on DEC-managed lands

Entry fees do not apply to Aboriginal people when visiting DEC-managed lands to do customary activities. Camping fees may apply when camping in designated camp sites where fees normally apply.

Written permissions

In some circumstances, written permission from the Chief Executive Officer (CEO) of DEC is required for Aboriginal people to do customary activities, because of the environmental sensitivity of a place or the risk to public safety.

The CEO has delegated the power to issue permissions to regional and district managers. Most of the written permissions are likely to be issued as outcomes of 'local area arrangements' (see below) with the Aboriginal groups and families of the region or district, but they can also be given on a case-by-case basis.

Written permission can be issued to a person or persons, or group, body or association of persons, and may or may not specify a minimum period of time for which the permission is valid. This process is designed to provide flexibility to deal with a range of situations and arrangements in a way that minimises administrative work.

However, if the conditions of the written permission are not met, or the Aboriginal person fails to observe the conditions, the person may be breaking the law.

Local area arrangements

When Aboriginal people wish to do restricted activities, or where DEC management activities will be impacted by customary activities, DEC will seek to establish 'local area arrangements' with the Aboriginal communities of the area. These arrangements would be ongoing and undertaken in good faith, with the aims of joint learning and achieving outcomes for protection of both the cultural and environmental values of the area.

Contact the local DEC office to find out about being involved in these local arrangements.

Some new terms

Some terms used in this document include:

- camping area – lands designated as a camping area for the public
- recreational land – this includes car parks, sealed roads, camping areas and visitor areas, and the land within 500 metres of these areas
- urban land – this includes all DEC-managed lands within the metropolitan regions of Perth, Peel and Bunbury
- visitor areas – this may include picnic areas, points of interest, lookouts or platforms, toilets, interpretive areas or a constructed thing. It does not include unsealed roads or walk trails.

Access

Aboriginal people can access most areas of DEC-managed lands and waters under the new laws. There are some areas that pose safety risks or are environmentally sensitive, and where Aboriginal people will need special permission. Other people or agencies also have certain rights to control access under other laws. Aboriginal people will need to be aware of the following when accessing lands.

Prohibited areas

These areas are not common but where they exist, no one is permitted in the area at any time without permission, usually because of a safety risk or because the land needs special protection from human disturbance.

Locked gates

Locked gates prevent entry to some places, usually for safety reasons. The local DEC office may consider special arrangements if access is required for customary purposes.

Mining areas and lease areas

Permission from the lessee is required to enter mining areas and lease areas. These are areas where the lessee (the renter) has come into an exclusive agreement with DEC to use, occupy and enjoy a certain area of land, for a specific purpose(s) defined in the agreement.

Mining leases issued under the *Mining Act 1978* allow the lessee to use and occupy the land for mining purposes. The lessee has exclusive rights under the lease.

Accessing leased lands is similar to entering private lands; the occupier's permission is needed to do so. Without permission to enter the land, trespassers can be prosecuted under the law.

Logging coupes

A logging coupe is an area of forest that is planned for timber harvesting. When harvesting starts it can spread over a number of 'cells' or areas, which may not be linked together. Logging coupes are mainly in south-west forest on land classified as State forest and timber reserves.

Jarrah and karri are the main tree species harvested. Logging coupes in State forest or timber reserves are declared worksites under the *Occupational Safety and Health Act 1984*. Aboriginal people will need to seek permission from harvesting contractors or the Forest Products Commission to enter these sites.

Temporary control areas

Temporary control areas are areas that have been closed to access for specific reasons, either for safety, conservation or customary reasons. This can be because of floods or fires, because a certain animal or plant is in recovery, or because an Aboriginal group has requested exclusive use of an area for customary reasons. Temporary control areas can be arranged for up to 90 days.

Written permission can be provided for an Aboriginal person to enter temporary control areas set aside for safety purposes, or for the protection of plants and animals. Aboriginal people do not require permission to enter temporary control areas set aside for Aboriginal customary reasons.

Water catchment areas

A catchment is an area where water is collected by the natural landscape. In a catchment, all rain and run-off water eventually flows to a creek, river, lake or ocean, or into the groundwater system. Natural and human systems such as rivers, bushland, farms, dams, homes, plants, animals and people can co-exist in a catchment when managed appropriately.

Healthy catchments provide:

- a sustainable source of clean drinking water
- unspoilt natural areas for recreation
- habitat for plants and animals
- healthy vegetation and waterways
- reliable and clean water for stock and irrigation
- opportunities for sustainable agriculture and industry.

Water catchment areas can be entered for customary reasons but certain activities, such as camping and hunting, are not allowed. Check with the Department of Water for specific restrictions if planning to do customary activities in a catchment area or see Operational policy 13: Recreation within public drinking water source areas on Crown land, available at www.water.wa.gov.au/PublicationStore/first/103823.pdf.

Emergency measures

Parks are occasionally closed for safety reasons in an emergency, for example when there is a flood or fire.

Closures are publicised on DEC's website (www.dec.wa.gov.au), and at local regional or district offices. There might also be signs at the entry to parks. In case of these emergencies, please follow the instructions of DEC staff.

Cars

Aboriginal people can take a vehicle off-road from unsealed roads in most areas of DEC-managed lands. A vehicle cannot be taken off-road from a sealed road. Please be aware that if new tracks are made, other visitors to the park could access areas culturally significant to Aboriginal people. There is also a risk of harming threatened native plants and disturbing animal habitats. DEC encourages the use of established roads and tracks wherever possible.

Contact the local DEC office to seek permission to access roads or tracks which have a locked gate or other barrier to stop traffic if it is culturally important to do so.

Vehicles must remain on all existing roads and tracks within Boonanarring Nature Reserve, Drummond Nature Reserve, or Moore River Nature Reserve in the Swan Region. Permission must be sought before taking a vehicle off-road within urban land, and for all other reserves within 500 metres of car parks, sealed roads, camping areas and visitor areas.

Using motorised vehicles on walking tracks or hiking trails is unsafe and is prohibited.

Wilderness areas or limited access areas

These are areas that are particularly environmentally sensitive, or dangerous to enter. Permission must be sought before entering these areas.

Disease risk areas

Disease risk areas (DRAs) are places that have been identified to be at high risk from the disease caused by the introduced plant disease *Phytophthora cinnamomi* (dieback).

The introduction of dieback has had catastrophic consequences to the flora of Western Australia with more than one million hectares of the south-west region now infested. This includes many vulnerable forests, woodlands and heathlands that occur between Eneabba and Cape Arid, east of Esperance. Once introduced into a vulnerable native ecosystem the pathogen causes a decline in biodiversity, irreversibly damages plant communities, and affects the habitats and food supplies of native animals that live within them. Once introduced, it is very expensive and difficult to eradicate. The main aim of management is to prevent the further spread of the pathogen.

Human activity causes the most significant and rapid spread of dieback. In particular this includes road construction, earthmoving, the use of infested plant stock, and dirty vehicles that transport infested soil. It is illegal to enter a DRA in a vehicle without a permit because of the risk of transporting soil contaminated with the pathogen. Speak to district DEC staff about the location of sites to clean vehicles.

Maps of where dieback has been found and the locations of DRAs can be found at www.dec.wa.gov.au/aca.

Aboriginal people can enter DRAs on foot but not in a vehicle without a permit. When entering these areas walkers need to ensure that their shoes and any equipment are clean (and again when they leave) to ensure they don't accidentally spread dieback. Boot cleaning stations—with scrub brushes to help remove any mud or soil—can be found in some parks.

Permits to enter DRAs can be obtained from the local DEC office.

Dogs

Aboriginal people can take their dog with them when they practise their customary activities, but the dog must remain in a vehicle within recreational land, urban land and townsites, unless signs state that dogs are allowed in the area. Permission is also needed to take dogs into poison risk areas.

Poison risk areas are areas of DEC-managed lands that are baited with 1080 poison. Through the use of 1080 poison baits as part of the *Western Shield* wildlife recovery program, DEC is working to bring native animals back from the brink of extinction. The poison 1080 is found naturally in some Western Australian plants and native animals have therefore developed a high tolerance. However, it is toxic to introduced species, meaning it is an effective control method for introduced predators such as the fox and feral cat. This also means the poison can kill domestic dogs. The 1080 sausage baits and dried meat baits are attractive to dogs and can remain toxic for a long time.

Dogs also need to remain under control at all times and should not scare or threaten other people.

Please check with the local DEC office to see if the area is a poison risk before taking a dog onto DEC-managed lands.

Camping

Aboriginal people can camp almost anywhere in a park for customary purposes (referred to as 'cultural camping') – the usual camp site rules apply in designated camp sites.

Cultural camping outside designated camp sites can be done for 28 days. When there are ceremonial events on country—for example, for law business or funerals—cultural camping is allowed for three months. It is a good idea to make the local DEC staff aware if there is an upcoming ceremonial event.

Written permission is needed for cultural camping outside designated camp sites in reserves within townsites or metropolitan areas, except in:

- Avon Valley National Park
- Dwellingup State Forest
- Lane Poole Reserve
- Jarrahdale State Forest
- Walyunga National Park.

Written permission is also required for cultural camping outside designated camp sites in Tunnel Creek National Park (in the Kimberley), Boonanarring Nature Reserve, Drummond Nature Reserve, or Moore River Nature Reserve (in the Swan Region), or within recreational areas.

All camps (designated or not) have to be kept clean and any rubbish removed when leaving.

Fire

Unless there is a total fire ban in place, Aboriginal people can light small fires for cooking, camping or smoking ceremonies in most places. They must also abide by certain restrictions if restricted or prohibited burning periods are in place.

During a total fire ban no one should light, maintain or use a fire in the open air, or do an activity that is likely to cause a fire. Total fire bans are declared on days when fires will be difficult to control, are likely to threaten lives or property or when widespread fires can impact the availability of resources. The decision to put a ban in place is made by the Department of Fire and Emergency Services (DFES) in consultation with the Bureau of Meteorology and local governments. DEC may also declare an area restricted for fire purposes.

Restricted and prohibited burning periods are also in place usually between November and April each year. These restrict the times, places and types of fires which can be lit. Under the *Bush Fires Act 1954* both DFES and local governments can declare fire restrictions. These restricted and prohibited burning periods vary for each local government area, so it is best to check with the local shire or council office to determine whether any restrictions are in place.

It is important to know of, and abide by, all laws that exist in relation to lighting fire, such as fire bans and restrictions set by DFES and local governments. For more information about fire bans or the fire danger level for the day call DFES on 1300 657 209.

When lighting a fire, it must be kept under control. It is important that there is a three-metre area around the fire clear of any debris, including logs, stumps, twigs and leaves. When leaving a campfire, it should be fully extinguished with dirt or water.

Unconfined fires, such as those to ceremoniously clean country or to aid in hunting, can only be lit with written permission from DEC. If there is a desire or need to burn a particular piece of country, the person(s) should contact the local DEC office to see if an arrangement can be made.

Before setting out to camp for customary purposes, check the fire danger level and any other fire restrictions for the area.

Prescribed burning

DEC performs prescribed burning during certain times of the year. Through local area arrangements DEC can perform these burns with Aboriginal people, if culturally significant. However, there is also a danger that these burns may be done when Aboriginal people are cultural camping. To ensure that there is no danger of a prescribed burn when camping on country it is a good idea to contact the local DEC office before setting out.

Hunting and gathering

Aboriginal people can hunt on DEC-managed land, but will need permission to hunt within one kilometre of car parks, sealed roads, designated camping sites and visitor areas or if hunting in reserves within urban land.

Reserves and parks are public spaces shared with other people so hunting needs to be conducted with the safety of others in mind. Firearms can only be used by those people with a licence and in accordance with the *Firearms Act 1973*.

Applying for a firearms licence

Only people with firearms licences are allowed to use guns on DEC-managed land. The Western Australia Police issue firearms licences to either an individual or to a body corporate. Those with a firearms licence must carry with them a photo identification card which is issued by the police, and must show the card if requested by a police officer.

It is illegal to have or use an unlicensed firearm, or to have a firearm licence that has expired. It is the responsibility of the person hunting to make sure they shoot safely in accordance with the Firearms Act.

For more information on applying for a firearms licence go to www.police.wa.gov.au/OurServices/PoliceLicensingServices/Firearms/Licenceapplications/tabid/1905/Default.aspx.

Caring and preserving

Aboriginal people can hunt or gather most plants and animals for customary activities, except if the plants and animals are threatened (see exceptions under 'Fishing'). These plants and animals have low population levels and need a chance to recover. Regional DEC offices will have lists of plants and animals that should not be hunted or gathered.

Sanctuary areas and marine nature reserves

Sanctuary areas of marine parks provide the highest level of protection of vulnerable or specially protected species, and protect representative habitats from human disturbance. These areas are set aside as 'no-take' refuges for marine species to recover from fishing and hunting, and to breed.

Marine nature reserves are 'look but don't take' areas created primarily for conservation and scientific research, and are designed to protect a particular significant ecosystem or habitat. Hamelin Pool Marine Nature Reserve, where 2,000-year-old stromatolites can be found, is currently the only marine nature reserve in Western Australia.

Written permission from DEC is required before hunting and gathering in sanctuary areas of marine parks and in marine nature reserves.

To find out what areas are sanctuary areas, check the management plan for the particular marine park. These are available online at www.dec.wa.gov.au/management-and-protection/marine-environment/marine-parks-and-reserves.html, or enquire at the local DEC office.

Taking to sell

No activity is considered customary if it is for financial gain or reward.

Aboriginal people will need a permit if they intend to sell plants and animals they take. More information on commercial permits and how to get them can be found at www.dec.wa.gov.au/parks-and-recreation/for-industry.html.

Fishing

Fishing activities are managed by the Department of Fisheries. The usual fishing rules and bag limits still apply to Aboriginal people when fishing, including marroning. For more information refer to the Department of Fisheries guidelines on customary fishing at www.fish.wa.gov.au/Fishing-and-Aquaculture/Customary-Fishing/Pages/default.aspx.

No one can hunt or gather rare, threatened, or otherwise protected species of plants and animals. However, Aboriginal people can hunt:

- dugong
- loggerhead, leathery, olive ridley, flatback, green or hawksbill turtles
- saltwater and freshwater crocodiles.

Lists of the no-take species are available on the DEC website at www.dec.wa.gov.au/aca.

Firewood

Aboriginal people can collect and use firewood for customary activities on DEC-managed lands. When firewood is collected for household customary activities it must only be collected from designated public firewood collection points. The same rules and fees apply for Aboriginal people as for the rest of the population. For information on where these areas are visit www.dec.wa.gov.au/management-and-protection/forests/gathering-domestic-firewood.html or enquire at any DEC office.

Forest products such as charcoal, gum, sap, honey and seeds can be taken and used for customary activities.

Other information

Native title and customary protocols

These new laws allow Aboriginal people to go on to DEC-managed lands and waters and undertake customary activities such as hunting, fishing, camping and ceremonies. However, when the DEC-managed lands or waters are part of an Aboriginal group's exclusive native title land, then other Aboriginal people must have the permission of the native title holders to undertake traditional activities on those lands or waters.

Even if exclusive native title has not been recognised over an area, non-exclusive native title rights may be in existence and should be respected. Traditional Aboriginal customary protocols may also need to be considered in addition to these laws.

Areas under a joint management agreement

When DEC and an Aboriginal group jointly manage lands or waters, there may be rules and protocols about what customary activities can be carried out and where. If unsure about doing any customary activities on jointly managed lands and waters talk to the local DEC office (see the contact list on page 17).

3 FREQUENTLY ASKED QUESTIONS AND ANSWERS

General

What is the effect of the CALM Act amendments on native title rights?

The *Conservation and Land Management Act 1984* (CALM Act) does not affect native title rights.

What are the main components of the changes to the Acts in relation to Aboriginal customary activities?

The CALM Act and the *Wildlife Conservation Act 1950* (WC Act) allow Aboriginal people to undertake a range of activities for customary purposes on reserves, or to take flowers, plants and animals usually protected under the WC Act for customary purposes, extending the opportunities previously available.

Activities for customary purposes consist of accessing lands and waters, camping temporarily, driving or riding a vehicle, navigating a vessel, bringing an animal onto the land, lighting or kindling fire, and taking or removing flora, fauna or a protected thing (including hunting).

The changes give Aboriginal people the legal ability to do the activities if it is for a customary purpose unless they are otherwise restricted or excluded by regulation.

Aboriginal people will continue to need the approval of the occupier when taking plants and animals on lands and waters not managed by DEC.

Are Aboriginal people going to be given any land?

No, the land will still be DEC-managed land. Areas might be marked for temporary exclusive use based on local area agreements with DEC regional management.

Do joint management agreements need to be in place to practice customary activities on DEC-managed land?

No.

Can customary activities be practiced outside DEC-managed land? Do Aboriginal people need permission? If so, who do Aboriginal people need permission from?

Yes, under the WC Act, plants and animals can be taken on any land. However, Aboriginal people will need permission from the landowners and/or occupier to take plants and animals on land outside DEC-managed land.

What is a cave for the purposes of customary activities?

A cave generally means a naturally formed cavity or hollow beneath the surface of the earth that is large enough to be entered by humans.

Can an Aboriginal person take a non-Aboriginal person (for example, wife, husband, friend who has gone through lore/law) to practice customary activities?

A non-Aboriginal person may be invited to accompany Aboriginal people to observe or assist in carrying out a customary activity. A wife, husband or friend, who is not a descendent, even if they have been accepted into the community, may not individually access and carry out activities for customary purpose under these laws.

Will Aboriginal customary activities have any effect on commercial activities, that is, forestry, commercial flora harvesting, or commercial tour operations?

Commercial activities will continue to be permitted on land managed by DEC, in accordance with management plans, and it is envisaged that Aboriginal customary activities and commercial activities will be able to coexist. However, if an issue arises that cannot be resolved between two affected parties, then DEC may address the matter under regulations.

The preparation of management plans will also have to take into account whether an activity will have a material adverse effect on the value of the land to Aboriginal culture and heritage.

Will Aboriginal customary activities have any effect on DEC management activities, that is, prescribed burning and fire suppression, and feral animal and weed control?

Lands will continue to be managed for the purpose of protecting and conserving the environment in accordance with the provisions of the CALM Act and Regulations; however, there will be an added statutory responsibility to allow for Aboriginal customary activities.

People undertaking Aboriginal customary activities will need to adhere to the CALM Act and Regulations, and any other relevant legislation (for example, the *Bush Fires Act 1954*). There will be continued opportunities for DEC to learn from Aboriginal people, and to work collaboratively on land management.

Will Aboriginal people have access to conduct customary activities to the exclusion of others?

Aboriginal people will be able to access areas in order to conduct certain activities for customary purposes. This access may be limited or controlled through appropriate regulation where safety is of concern or where it is considered to be detrimental to the conservation values of the area.

The only time the general public would be excluded is if a temporary control area is established to protect the value of the land to the culture and heritage of Aboriginal people. A temporary control area can be set aside for up to 90 days. Any closures will be publicly advertised.

These access rights are in recognition of the fact that Aboriginal people were the first occupiers of the land, and aim to allow them to continue to undertake traditional activities on country, where their activities do not conflict with the conservation values of the land.

Will Aboriginal customary activities be permitted on land where exclusive native title has been determined, but where the people performing the activities are not the holders of the exclusive native title on that land?

Yes, other Aboriginal people will be permitted to conduct activities for customary purposes on these lands if they have the consent of the exclusive native title holder(s).

Access

Can Aboriginal people access blocked-off pathways or tracks?

Yes. However, where the path is gated and locked for public safety, environmental reasons or dieback disease permission will be required.

Can Aboriginal people access DEC-managed land at any time? That is, during the day and night?

Yes. However, there are certain areas that are closed off to the public at night due to vandalism. If Aboriginal people need access to the area at a time when the DEC-managed land is closed to the general public, they can contact their local DEC office to arrange access.

How do Aboriginal people go about getting permission to access cultural sites that are as yet not accessible?

If Aboriginal people cannot access a cultural site, they can consult with their local DEC office for assistance or to come to an arrangement to provide access for Aboriginal people.

It is important to note that if a new track is created to access a site, there is a possibility that the general public will access the site as well. This is why it is advisable to consult DEC on access to special places.

Will Aboriginal customary activities have any effect on public access to parks and reserves, and activities within parks and reserves, that is, walking, camping, swimming or fishing?

The public will continue to have access to parks and reserves, and the activities allowed in each park or reserve will continue to be guided by the relevant management plan. There may be, on occasion, temporary control areas established for up to 90 days to protect the value of the land to the culture and heritage of Aboriginal people. Any closures will be publicly advertised.

Fire

Can Aboriginal people light fires at all times of the year? What kinds of fires are permitted?

No, there are some times when fires should not be lit.

If Aboriginal people wish to light a fire for camping or cooking (including night-time light, smoking ceremonies or ceremonial if it is like a campfire) they should first check:

- If there is a total fire ban in place. No fire can be lit if this is in place.
- If there isn't a total fire ban, if the fire danger forecast by the Bureau of Meteorology for the locality is 'catastrophic', 'extreme', 'severe' or 'very high'. If it is any of these categories, Aboriginal people will need to get written permission from the local government before they can light a fire.
- That the local government hasn't prohibited fires for camping or cooking in the area they wish to go.
- That the fire will not risk damage to any forest produce.
- That the area within three metres of any side of the fire is cleared of all bush and other flammable material, including logs or stumps.

In addition, any fire lit has to be completely extinguished by water or earth before leaving it.

Fires in the bush have a high risk of igniting or sparking a damaging bushfire, particularly in certain parts of the year. The use of fire for customary purpose needs to be done safely and responsibly and in line with any requirements under the *Bush Fires Act 1954*.

If the fire is lit for any other purpose it will also require permission from DEC.

Can Aboriginal people go into partnership with DEC to do prescribed burns?

Partnerships to undertake burns or other land management activities will be considered on a case-by-case basis. Contact the local DEC office to discuss the opportunities.

Can smoking ceremonies be conducted outside caves to make them safe?

Smoking ceremonies can be conducted outside caves the fire is lit and extinguished according to the *Bush Fires Act 1954*.

Is a smoking ceremony considered a fire?

Yes. A fire must still be lit or kindled to begin a smoking ceremony. All fires, no matter what the purpose, still need to comply with the *Bush Fires Act 1954*. The fire must have a three-metre clearing around it, must be extinguished with either water or earth, and should not be left unattended.

If Aboriginal people need to do a smoking ceremony when there is a total fire ban or other restriction in place, please contact the regional DEC office.

Will fire restrictions that are in place still be applied to Aboriginal customary activities?

Yes, restrictions under the *Bush Fires Act 1954* apply to all people.

What does a total fire ban mean?

It means a person must not light, maintain or use a fire in the open air, or carry out an activity in the open air that causes or is likely to cause a fire. The ban includes hot works (welding, grinding, soldering, gas cutting), all open solid fuel fires for the purpose of cooking or camping, the use of incinerators and other activities (as described under 'What can't I do on a total fire ban day?' on page 13).

When will a total fire ban be declared?

Total fire bans are declared on days when fires will be difficult to control, are most likely to threaten lives and property, or when widespread fires are impacting the availability of fire suppression resources.

The decision to put a ban in place is based on the weather forecast. DFES consults with the Bureau of Meteorology to determine when dangerous fire weather conditions are likely. DFES also consults with local governments that will be affected. The need for the ban to remain is assessed and may be revoked in the morning if weather conditions ease. The status of a ban should be checked after 6pm each day.

How long is a total fire ban in place?

The ban will usually be in place for the whole of the day declared.

What can't I do on a total fire ban day?

Can I use my barbecue?

This depends on the type of barbecue or cooker, and where it is located. During a total fire ban you cannot light or use a fire in the open air. Undercover areas such as patios, pergolas and huts that are open or partially open to the weather are deemed to be in the open air.

Solid fuel

No. You cannot use any barbecue or cooker that requires solid fuel such as wood or charcoal. This includes wood-fired ovens or stoves, and Webber-like barbecues.

Gas

Yes. You can use a gas barbecues for cooking if it has an enclosed flame and all flammable material is cleared five metres away from around your barbecue. Your barbecue must never be left unattended. Barbecues with exposed flames cannot be used.

Electric

Yes. You can use an electric barbecue where there is no flame.

Camping

Can Aboriginal people take their vehicle off road and set up camp at any time? Or do they have to ask permission first?

Yes, Aboriginal people are allowed to take their vehicle off an unsealed road and set up camp at any time, but not within 500 metres of recreational land or visitor areas. DEC asks that Aboriginal people do not block the road or path to other users, do not damage the plants around their camp site and that they remove any rubbish when they leave.

How long are Aboriginal people allowed to stay/camp to practice their customary activities?

Aboriginal people can camp for 28 days for customary activities, up to three months for ceremonial activities and longer by arrangement with the regional offices.

Hunting and gathering

Can Aboriginal people go hunting?

Yes. However, DEC-managed lands and waters are public spaces and are shared with other people. Safety is very important and must be considered when using weapons and tools to hunt, so other people are not harmed.

Aboriginal people will need a firearms licence issued by the WA Police if hunting with a firearm. Aboriginal people are also not permitted to hunt animals within one kilometre of public facilities, recreational areas, car parks, camping areas or roads. Any owner of a firearm or weapon must adhere to the provisions of the *Firearms Act 1973* and the *Weapons Act 1999*.

Do Aboriginal people need to abide by the laws and regulations set out by the Department of Fisheries in regard to marroning?

Yes, the laws regarding marroning still apply.

Can Aboriginal people marron outside the marron season?

No, the laws regarding marroning outside the season still apply.

Can Aboriginal people hunt in their vehicles?

Aboriginal people can use their vehicle to access a hunting site but, to ensure the safety of the general public, are asked not to hunt from a moving vehicle.

Do Aboriginal people need a license to collect flora?

No. However, a licence will be required if the plant material will be used for a commercial purpose. If the plant is a rare species Aboriginal people will need written permission.

Can Aboriginal people take flowers, plants and animals for commercial purposes?

Aboriginal people will need to have a licence to remove flowers, plants and animals for commercial purposes.

Haven't Aboriginal people always been able to take flowers, plants and animals?

Aboriginal people have been permitted to take flowers, plants and animals for food for themselves and their families without having to seek a licence since the WC Act came into effect in 1952. Amendments to the WC Act will extend this to also allow the taking of flowers, plants and animals by Aboriginal people for medicinal, ceremonial and artistic purposes. Certain threatened species still cannot be taken – a complete list of these species can be found at www.dec.wa.gov.au/aca.

4 GLOSSARY OF TERMS

Aboriginal person means a person wholly or partly descended from the original inhabitants of Australia.

Camp means

- (a) to stay or lodge (whether in a camping unit or otherwise) during any period of the night after 9.00pm and before 6.00am
- (b) to stay or lodge in a camping unit, building or structure during any period of the day after 6.00am and before 9.00pm.

Camping area means an area designated by sign as a camping area.

Conservation parks are areas of land reserved for the regional or local significance of their scenic, customary or biological values. They can accommodate recreation that is consistent with maintaining these values.

Customary activities are certain activities undertaken for an Aboriginal customary purpose in accordance with section 103A of the CALM Act. These activities include:

- (a) entering the land
- (b) driving or riding a vehicle or navigating a vessel on the land
- (c) bringing an animal onto the land
- (d) camping temporarily on the land
- (e) lighting or kindling a fire on the land
- (f) taking or removing a protected thing on the land.

An Aboriginal customary purpose means:

- (a) preparing or consuming food customarily eaten by Aboriginal persons
- (b) preparing or using medicine customarily used by Aboriginal persons
- (c) engaging in artistic, ceremonial or other customary activities customarily engaged in by Aboriginal persons
- (d) engaging in activities incidental to these purposes.

DFES means the Department of Fire and Emergency Services, formerly the Fire and Emergency Services Authority (FESA).

Disease risk area (DRA) is an area declared by the Minister for Environment to be at risk of being infected by a forest disease.

Dog area means an area that has been designated or has a sign that designates it as a dog area.

Fire danger ratings (FDR) are based on the forecast weather conditions and provide advice about the level of bushfire threat on a particular day. When the rating is high, the threat of a bushfire is high.

When the FDR is 'extreme' or 'catastrophic' in the area it means any fires that start are likely to be so fierce that even a well prepared, well constructed and actively defended home may not survive.

If this sort of weather is expected people should leave the day or hours before a fire might threaten as this is the best option for their survival.

Firewood means dead wood lying on the ground. It includes parts of trees of all species.

Forest produce includes trees, parts of trees, timber, sawdust, chips, firewood, charcoal, gum, kino, resin, sap, honey, seed, beeswax, rocks, stone and soil but does not include minerals within the meaning of the *Mining Act 1978*.

Marine parks are marine areas set aside to protect natural features and maintain beauty while enabling compatible recreation and commercial activities. In sanctuary zones, fishing is totally prohibited.

National parks are areas of land that have national significance for scenic, customary or biological values, and can accommodate recreation that is consistent with maintaining these values.

Nature reserves are areas of land set aside for the primary purpose of conservation. They are managed to maintain and restore the natural environment, and to protect, care for and promote the study of indigenous fauna and flora.

Recreational land means CALM land (land managed under the CALM Act) that is, or is within 500 metres of, any of the following:

- (a) a car park, including any area where signs direct vehicles to be parked or that is predominantly used for parking vehicles
- (b) a sealed road
- (c) a camping area
- (d) a visitor area.

Regional parks are terrestrial areas managed to preserve and restore valuable ecosystems and customary heritage while encouraging a range of sustainable nature-based recreation activities.

Sell can include to

- (a) sell by wholesale or retail
- (b) supply or perform for profit
- (c) receive for sale
- (d) have in possession for sale
- (e) send, forward or deliver for sale
- (f) cause or suffer or allow to be sold
- (g) dispose or offer for disposal under a hire-purchase agreement.

State forests are terrestrial areas containing indigenous vegetation that are managed for purposes such as recreation and nature conservation, the protection of water catchments and the production of a sustainable harvest of timber.

Take means

- (a) to injure, destroy or otherwise interfere with, or cause or permit the doing of any of those things
- (b) to hunt any fauna even though no fauna is actually taken
- (c) an attempt to take.

A total fire ban (TFB) is declared when extreme weather conditions or widespread fires are stretching fire fighting resources. It is declared by the Minister for Emergency Services on advice from DFES after consultation with relevant local shire councils that may be affected.

When a TFB is declared it prohibits the lighting of any fires in open air and any other activities that may start a fire. The ban includes all open fires for the purpose of cooking or camping. It also includes incinerators, welding, grinding, soldering or gas cutting.

Townsite has the meaning given in the *Land Administration Act 1997* section 26(1).

Tree includes a tree that is dead, provided the tree is still standing.

Urban land means land within the metropolitan region as defined in the *Planning and Development Act 2005* section 4(1), the Peel Region described in Schedule 4 to that Act or the local government district of Bunbury.

Vehicle has the same meaning as in the *Road Traffic Act 1974*; which includes:

- (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means; and
- (b) where the context permits, an animal being driven or ridden.

Vessel means anything used, or capable of being used, to move people or things by water and it does not matter:

- (a) that such a thing is ordinarily stationary; or
- (b) how any such thing is moved or propelled.

Visitor area includes any of the following:

- (a) an area of cultivated lawn
- (b) an area signposted as a picnic area
- (c) an area signposted as a historical, natural or cultural point of interest
- (d) an area where any of the following have been provided for visitors:
 - (i) tables and seating
 - (ii) a lookout or platform
 - (iii) a toilet facility
 - (iv) a rubbish bin
 - (v) interpretive information
 - (vi) any building, facility or other erected or constructed thing, but does not include a walk trail or unsealed road.

1080 (sodium fluoroacetate) is a naturally occurring toxin found in many native south-west Western Australian plants known as 'poison peas'. Western Australia's native animals have developed a high tolerance to the poison. This has given DEC a valuable ally in its battle to control foxes in Western Australia, as '1080' baits can be used to selectively kill introduced predators without endangering our native wildlife.

5 INFORMATION RESOURCES

Helpful contacts

DEC district offices

Goldfields Region

Kalgoorlie (regional headquarters)

32 Brookman Street KALGOORLIE
Phone (08) 9080 5555
Fax (08) 9021 7831

Kimberley Region

Kununurra (regional headquarters)

Lot 248 Ivanhoe Road KUNUNURRA
Phone (08) 9168 4200
Fax (08) 9168 2179

Midwest Region

Geraldton (regional headquarters)

1st Floor, The Foreshore Centre
201 Foreshore Drive GERALDTON
Phone (08) 9921 5955
Fax (08) 9921 5713

Shark Bay District

61–63 Knight Terrace DENHAM
Phone (08) 9948 1208
Fax (08) 9948 1024

Jurien Bay (Moora District)

Lot 124 Bashford Street JURIEN BAY
Phone (08) 9652 1911
Fax (08) 9652 1922

Pilbara Region

Karratha (regional headquarters)

Lot 3 Anderson Road Karratha Industrial Estate KARRATHA
Phone (08) 9143 1488
Fax (08) 9144 1118

Exmouth District

20 Nimitz Street EXMOUTH
Phone (08) 9947 8000
Fax (08) 9947 8050

South Coast Region

Albany (regional headquarters)

120 Albany Highway ALBANY
Phone (08) 9842 4500
Fax (08) 9841 3329 and
(08) 9841 7105

Esperance District

92 Dempster Street ESPERANCE
Phone (08) 9083 2100
Fax (08) 9071 3657

South West Region

Bunbury (regional headquarters)

South West Highway BUNBURY
Phone (08) 9725 4300
Fax (08) 9725 4351

Busselton (Blackwood District)

14 Queen Street BUSSELTON
Phone (08) 9752 5555
Fax (08) 9752 1432

Collie (Wellington District)

147 Wittenoorn Street COLLIE
Phone (08) 9735 1988
Fax (08) 9734 4539

Swan Region

Kensington (including Western Australian Herbarium)

17 Dick Perry Avenue KENSINGTON
Phone (08) 9219 8000
Fax (08) 9334 0498

Bentley (regional headquarters)

7 Turner Ave TECHNOLOGY PARK
Phone (08) 9368 4399
Fax (08) 9423 2901

Perth Hills District

51 Mundaring Weir Road MUNDARING
Phone (08) 9290 6100
Fax (08) 9290 6101

Swan Coastal District

5 Dundobar Road WANNEROO
Phone (08) 9303 7700
Fax (08) 9303 7777

Warren Region

Manjimup (regional headquarters)

Brain Street MANJIMUP
Phone (08) 9771 7988
Fax (08) 9771 2677

Donnelly District

Kennedy Street PEMBERTON
Phone (08) 9776 1207
Fax (08) 9776 1410

Frankland District

South Coast Highway WALPOLE
Phone (08) 9840 0400
Fax (08) 9840 1251

Wheatbelt Region

Narrogin (regional headquarters)

7 Wald Street NARROGIN
Phone (08) 9881 9222
Fax (08) 9881 3297

Great Southern District

Hough Street NARROGIN
Phone (08) 9881 9200
Fax (08) 9881 1645

Merredin (Central Wheatbelt District)

33 Bates Street MERREDIN
Phone (08) 9041 2488
Fax (08) 9041 2454

WILDCARE helpline – for sick or injured wildlife 9474 9055

Wildlife Watch – for reporting illegal wildlife activity 1800 449 453

WA Police 131 444 (non emergency)

Poison Hotline 13 11 26

DFES 1300 657 209

Emergency information

For all emergencies, contact Emergency Services (Police) on 000 or 112 on mobiles



Department of
Environment and Conservation

Our environment, our future 