

Annexure R

By-laws under section 34 of the *Water Agencies (Powers) Act 1984* (WA)

(Parts A and B)

[Page intentionally left blank - see next page]

Part A

Country Area Water Supply Amendment By-laws

[Page intentionally left blank - see next page]

Country Areas Water Supply Amendment By-laws 2014

Made by the Minister under the *Country Areas Water Supply Act 1947* section 105 and the *Water Agencies (Powers) Act 1984* section 34.

1. Citation

These by-laws are the *Country Areas Water Supply Amendment By-laws 2014*.

2. Commencement

These by-laws come into operation as follows —

- (a) by-laws 1 and 2 — on the day on which these by-laws are published in the *Gazette*;
- (b) the rest of the by-laws — on the day after that day.

3. By-laws amended

These by-laws amend the *Country Areas Water Supply By-laws 1957*.

[The following shows how the Country Areas Water Supply By-laws 1957 would look after the proposed amendments. The formal amendments needed to produce the desired result will be drafted when it has been agreed how those regulations should end up looking.]

Country Areas Water Supply By-laws 1957

Division 1 — Preliminary

1. Citation, commencement and application

- (1a) These by-laws may be cited as the *Country Areas Water Supply By-laws 1957*.
- (1) These by-laws shall take effect and have the force of law on and after 1 July 1957, in every catchment area and water reserve constituted under section 9 of the principal Act.
- [(2) *Omitted.*]
- (2) Despite sub-bylaw (1), these by-laws do not apply to the Wellington Dam Catchment Area except for the Mungalup Dam Catchment.
- (3) The boundaries of the Mungalup Dam Catchment are, for the purposes of sub-bylaw (2) —
 - (a) defined by reference to the coordinates annexed to the Department of Water Plan WT 6564 titled “Mungalup Dam Catchment” and dated 3/09/2013; and
 - (b) shown, for information, on the maps in Schedule 4.

Note: The map referred to in sub-bylaw (3)(a) is available for inspection at the Head Office of the Department of Water and on the Department’s website.

- (4) In sub-bylaw (3) —

coordinates means Map Grid of Australia 1994 grid coordinates in Zone 50 of the Universal Transverse Mercator Grid System based on the Geocentric Datum of Australia.

1A. Terms used

- (1) In these by-laws, unless the context otherwise requires —

Aboriginal customary purpose means —

- (a) preparing or consuming food customarily eaten by Aboriginal persons; or
- (b) preparing or using medicine customarily used by Aboriginal persons; or
- (c) engaging in artistic, ceremonial or other cultural activities customarily engaged in by Aboriginal persons; or
- (d) engaging in activities incidental to a purpose stated in paragraph (a), (b) or (c);

feeder means a watercourse, creek, stream or other channel with permanent or intermittent flow whereby water is or can be conveyed to a reservoir;

inspector means an inspector appointed by the Corporation or the CEO for the purposes of these by-laws;

liquid waste means liquid wastes as defined in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* regulation 3;

Noongar people means the traditional owners of the lands in the South west settlement area;

principal Act means the *Country Areas Water Supply Act 1947*, as ~~amended~~ amended;

South west settlement area means the area of lands described in Schedule 1 and shown, for information purposes, on the map in Schedule 2;

special provision catchment area means a catchment area within the South west settlement area.

bl. 3

- (2) In these by-laws, unless the context otherwise requires, words and expressions have the same meanings as in the principal Act.
- (3) In these by-laws, unless the context otherwise requires, ***cesspool, drain, house, land, owner*** have the same meanings as they have in section 3 of the *Health Act 1911*.

Division 2 — Prevention of pollution in water reserves and catchment areas

2. Application of Division

Subject to by-law 1(2), the by-laws in this Division apply to all water reserves and catchment areas constituted for the purpose of the principal or any amending Act.

3. Cesspools to be filled in on notice from CEO

All existing cesspools, within the catchment areas shall be cleansed and filled up to the satisfaction of an inspector, within one calendar month after notice, in writing, to that effect has been given by or with the authority of the CEO to the occupier or owner of the premises concerned.

4. Closets, situation of, removal on notice from CEO etc.

Closets shall not be constructed within 50 m of high-water mark, or of any well or bore, and any closet situated within 50 m of high-water mark, or of any well or bore, shall within one calendar month of notice to that effect being given to the owner or occupier by the CEO or by an inspector, be taken down and the cesspool, if it exists, cleansed and a fire made therein, after which the cesspool shall be filled up to the satisfaction of the inspector by the owner or occupier of the house to which the closet or cesspool is appurtenant.

5. Houses to have approved sanitary conveniences

- (1) The owner and occupier of every house within the catchment area shall provide for the use of the occupants of the house —
 - (a) an earth closet with a sufficient number of pans approved by an inspector; or
 - (b) septic tanks or other apparatus as may be required or authorised by the CEO.
- (2) The closet, septic tanks or authorised apparatus shall be erected in a position as directed by an inspector.

bl. 3

6. Earth closets and privies, construction of

No person shall construct or cause to be constructed any earth closet or privy which does not comply with the following conditions:

- (a) It shall not be less than —
1.5 m in length, or
1 m in width, or
2 m in height.
- (b) It shall not be within 6 m of any house or tank, nor within 15 m of any other water supply, nor within 15 m of the milking shed or milk room of any dairy, and shall be so constructed that the pan may be withdrawn from the rear of the convenience.
- (c) The walls shall be of stone, brick, or other material approved by the CEO.
- (d) There shall be at least 2 ventilating openings, of 325 cm², in area, one in each of 2 opposite walls, and situated 1.8 m above the floor level.
- (e) The roof shall be of galvanised iron, or other impervious material.
- (f) The door shall be hung so that there is, when the door is closed, a clear space of at least 8 cm above and below it.
- (g) The floor shall be of approved impervious material, and shall have a uniform fall of 1 in 30 from back to front and its upper surface shall be not less than 15 cm above the level of the ground adjoining.
- (h) The panstead shall measure 50 cm long by 40 cm wide. It shall be totally enclosed and constructed in a manner to exclude flies.
- (i) The under surface of the seat shall be 40 cm above the floor.
- (j) A hinged aperture cover shall be provided to the seat.

- (k) A service door shall be provided in the rear wall of the convenience through which the pan must be withdrawn.

6A. Sanitary conveniences, number required in houses etc.

In relation to sanitary conveniences to be provided in connection with houses and public and private places, the following provisions shall apply, that is to say:

- (1) Every house, and every public place and every private place shall be provided with not less than one sanitary convenience.
- (2) In the case of any house, or public or private place in respect of which the requirements of more than 20 persons have to be provided for, there shall be additional sanitary conveniences in the proportion of one for every 20 persons, or portion of 20: Provided that this requirement shall not apply to public buildings under Part VI of the *Health Act 1911*, nor to licensed premises under the provisions of the *Licensing Act 1911*³, nor to factories under the provisions of the *Factories and Shops Act 1920*.

6B. Sanitary conveniences to be kept clean

- (1) The occupier of any premises whereon there is a sanitary convenience shall maintain the convenience in a cleanly condition.
- (2) The owner of any premises whereon there is a sanitary convenience shall maintain the convenience in accordance with these by-laws.
- (3) Every closet shall be supplied with a sufficient number of receptacles which shall be interchangeable with others in the same district and which shall be of approved size, shape and style, and every pan shall be emptied and cleansed at least once every week or as often as may be required by an inspector.

bl. 3

7. Closets and urinals to be replaced on notice from inspector

Closets or urinals already in existence shall, whenever considered necessary by an inspector be removed where directed by the inspector, and the removal or re-erection shall be at the cost of the owner, who shall have the work completed within one calendar month from delivery by the inspector of written notice to the owner requiring this to be done.

8. Closets not to cause nuisances

- (1) The owner or occupier of any house within a catchment area shall not permit the contents of any pan used in any closet or urinal to overflow from any cause whatever.
- (2) The owner or occupier of any house within the catchment area shall not permit any closet or urinal, or pan appertaining thereto, or used by the occupants of such house to become offensive or a nuisance, and every such owner or occupier, whenever directed, either verbally or in writing by an inspector, shall properly and effectively empty and cleanse the closet, urinal or pan, to the satisfaction of the inspector.

9. Nightsoil etc., disposal of

- (1) Nightsoil, refuse and garbage shall be disposed of from time to time as the CEO or an inspector may direct.
- (2) Nightsoil, faecal matter or refuse shall not be buried within the catchment area unless written consent thereto has been obtained from the CEO.
- (3) Nightsoil, faecal matter or human urine, whether mixed with any other substance or not, or any solution thereof, unless the same has been thoroughly deodorised and disinfected to the satisfaction of an inspector, shall not be placed, deposited, spread or permitted to be placed, deposited or spread in or upon any land or garden within a catchment area, unless written consent thereto has been obtained from the CEO.

10. Manure etc., disposal of near water

Refuse, dung, manure or other offensive matter shall not be deposited or be permitted to be deposited within 300 m of high-water mark or of any well or bore.

11. Fertiliser and poisons, use of

- (1) The owner or occupier of any house, land or premises situated within a catchment area shall not use without the approval of the CEO —
 - (a) any artificial manure for agricultural, horticultural, pastoral and silvicultural purposes; or
 - (b) any weed killer or any other toxic substance; or
 - (c) any poison for the destruction of rabbits, dogs, foxes, possums, rats, mice or other vermin.
- (2) The CEO may from time to time by notice published in the *Government Gazette* —
 - (a) specify substances that may be used within a catchment area without the CEO's prior approval; or
 - (b) permit the use within a catchment area of any specified substance or substances in a specified manner or in accordance with a specified method.
- (3)(a) Where a notice specifies a substance that may be used without the CEO's prior approval in accordance with sub-bylaw (2)(a) that substance may be used within the catchment area in question without the approval referred to in sub-bylaw (1).
- (b) Where a notice permits the use of any substance in a specified manner or in accordance with a specified method no person shall without the approval of the CEO use the substance within the catchment area in question except in that manner or in accordance with that method.

bl. 3

12. Stables etc., construction of near water

- (1) Buildings of any description shall not be used as or constructed for a stable, cow-shed, goat-shed, sheep-pen, pig-sty or fowl-house, and any animal or bird shall not be housed or yarded within 300 m of high-water mark or of any well or bore or in a position that stormwaters may wash any manure or refuse therefrom into any reservoir or feeder.
- (2) Every such structure within the catchment area shall have attached thereto for containing all liquid and solid manure a watertight receptacle approved by an inspector.
- (3)(a) Land sloping to a feeder on which any such structure stands shall be excavated to a depth of at least 30 cm and the soil so obtained shall be used as an embankment around the area so excavated.
- (b) Such work shall be done by and at the expense of the owner or occupier of such premises.

13. Stables etc. to be kept clean

The owner or occupier of any stable, cow shed, goat-shed, sheep-pen, pig-sty or fowl-house, situated within a catchment area, shall not allow any dung, manure, or other refuse to accumulate in or near such premises, but shall immediately remove or dispose of same in such manner that it cannot pollute any water flowing or which may flow into any reservoir or any feeder or any well or bore and an inspector may by written notice to the owner or occupier order the immediate removal and disposal of any dung, manure, or other refuse from such premises and any person omitting to comply with the notice to the satisfaction of an inspector shall be guilty of an offence against these by-laws, and liable to penalties for breach thereof.

14. Closets to be disinfected on notice from CEO

The occupier of every house or premises whether public or private situated on any catchment area, shall when required by

the CEO, cause all nightsoil or other matter deposited in any pan in any closet or privy to be thoroughly disinfected in the manner specified by an inspector.

15. Nightsoil to be treated etc.

Every nightman or contractor shall cause the nightsoil removed from any premises to be either rendered inoffensive or treated in a destructor, desiccator or incinerator, or buried in trenches outside the catchment area, or disposed of in a manner approved by an inspector.

16. Closet pans, procedure for removing and cleaning

The mode of removal of each receptacle in each closet shall be as follows:

- (a) The nightman shall remove each receptacle and at once cover the same with a suitable tight-fitting lid, and upon every such removal shall carefully place a cleansed pan, of the pattern approved by the CEO or an inspector, in lieu of every pan so removed.
- (b) Each receptacle which is so removed from a closet and sealed with a lid as prescribed in the foregoing clause, shall be removed by the nightman in a cart or vehicle of a pattern to be approved by an inspector, and the contents of all such receptacles shall be deposited in such place or places as shall from time to time be fixed by the CEO or an inspector.
- (c) After the receptacle has been emptied, it and its lid shall be thoroughly washed, and scrubbed in clean water and then the inside of the receptacle and both sides of the lid shall be thoroughly scrubbed in a disinfecting solution, a separate brush being used, and then wholly immersed in a solution of disinfectant having a germicidal value equal to a 5% solution of pure carbolic acid; or thoroughly cleansed in a steam-tight box or chamber with steam, to be applied to the receptacle and lid for not less than 5 minutes.

bl. 3

- (d) The interior surface of every receptacle and the underside of the lids shall, after being thoroughly cleansed, be properly coated with coal tar applied hot, and the coating shall be renewed, whenever necessary, so as to properly protect the whole internal surface of the receptacle and the underside of the lid.
- (e) The receptacle shall be emptied and perfectly cleansed as above once per week at least, or so much more frequently as the CEO or inspector may from time to time direct.

17. Nightsoil, charges for removal of

Every nightman is entitled to charge, unless other arrangements be made, and to receive from the occupier of any premises from which any nightsoil, trade or house refuse is removed, such sum or sums of money as are specified in a contract and approved by the CEO, and shall not ask, demand, or receive more than the sums approved.

[18 & 19. Deleted.]

19A. Pigs, keeping of

The keeping of swine on any portion of a catchment area within 500 m of a reservoir or feeder situate within a catchment area or of a well or bore is hereby forbidden.

20. Animals not to be allowed to stray etc.

A person shall not cause or permit horses, cattle, sheep, goats, pigs, ducks, geese, fowls or other species of livestock to stray or depasture over any portion of a catchment area in respect of which area the CEO has by notice in the *Government Gazette* prohibited the straying or depasturing of horses, cattle, sheep, goats, pigs, ducks, geese, fowls or other species of livestock.

21. Abattoirs etc., establishment of

Abattoirs, slaughterhouses or any trade with offensive waste shall not be established or conducted in any part of the catchment area, except in an area defined in the Schedule to this by-law and set apart for the offensive trades, and unless provision is made for the disposal of all wastes, liquid or otherwise, either outside the catchment area, or in some other manner approved by the CEO.

Schedule**Area; Description**

Wellington Dam Catchment — Offensive Trades Waste Area; that piece of land delineated and bordered in red on Public Works Department Plan, W.A. 36033.

22. Carcasses to be removed from near water

In the event of the death or of an accident necessitating the slaughter of any horse, cattle, or sheep, or other animal, the carcass of the animal shall be removed by the owner thereof to a safe distance from high-water mark, or of any well or bore, or any feeder, or to such place as an inspector may direct, and the owner shall immediately thereafter dispose of same by burning to the satisfaction of the inspector, or if the owner cannot be found, the inspector shall destroy it.

23. Human burials to be in approved places

- (1) No human body shall be buried in any catchment area except in a place approved by the Minister.
- (2) Any human body so buried with the approval of the Minister shall be covered with at least 1.5 m of earth.

24. Household refuse, receptacles for

- (1) The occupier of every house or premises shall provide and keep in a position approved by an inspector, such and so many receptacles or boxes of the material and of the dimensions as

bl. 3

may be required by the CEO or inspector for the temporary deposit of solid house refuse.

- (2) The owner or occupier of the house shall regularly collect all refuse or rubbish from the premises, and place the same in receptacles and he shall not permit or suffer the receptacles to overflow or become offensive, and shall, when necessary, or directed by the inspector, thoroughly disinfect the same forthwith.
- (3)(a) The owner or occupier of every house or premises in which a receptacle or box is so provided or kept or used, shall cause same to be emptied at least once a week or as often as the inspector may direct.
- (b) The owner or occupier of the house or premises shall keep the receptacle or box in good repair, and upon notice from the inspector immediately replace by a new and improved receptacle or box any receptacle or box that the inspector may deem worn out or unfit for use.

25. Household refuse, disposal of

- (1) The owner or occupier of any house which is served by a rubbish removal service shall not deposit any rubbish whatsoever upon any catchment area, other than in the place set apart by the CEO or an inspector for such purpose.
- (2) Where a house is not served by a rubbish removal service, then the owner or occupier of the house may, subject to the next succeeding by-law, dispose of his own dry house refuse or rubbish by burial: Provided that such rubbish shall be covered by at least 30 cm of clean earth.

26. Refuse etc. not to be deposited in catchment area

Rubbish, filth, blood, offal or manure or any slops, soapsuds, urine, water containing urine or other refuse, noisome thing or matter, shall not be deposited or be permitted to be deposited in any part of a catchment area, where it may, in the opinion of an

inspector, be carried by stormwater, into any feeder or any well or bore, but every occupier or owner shall provide and maintain proper watertight vehicles or receptacles fitted with close-fitting covers or lids for the purpose of carting or receiving same.

27. Refuse bins etc., position and cleaning of

All such vehicles or receptacles shall be kept in such convenient place to allow of ready removal as may be directed by an inspector, so as not to be a nuisance to any person, and shall be kept in a thoroughly sanitary condition, and removed at least once every week and cleansed and disinfected both inside and out.

28. Refuse etc. to be deposited only at approved sites

Foul or offensive water or other offensive liquid, or refuse, garbage, sweepings, or other offensive matter or thing, shall not be pumped, emptied or swept, thrown, or otherwise discharged or deposited into or upon any street, lane, yard, vacant land, or other place, whether public or private within the district other than the place set apart by the CEO or an inspector for that purpose.

29. Industrial wastes, discharge of

- (1) No person shall pump, drain or discharge or permit to be pumped, drained, or discharged, any water or liquid waste from any quarry, mine pit, factory or industrial process upon any catchment area without the written permission of the CEO.
- (2) Where any permitted water or liquid waste is so discharged the person so discharging it shall at all times comply with the requirements of the permit.

30. Polluting activities prohibited

No person shall wash clothes or other articles in any watercourse, reservoir, aqueduct, or any waterworks within a catchment area, nor shall any person wash, throw, cause or permit to enter therein any dog or other animal, or throw or

bl. 3

convey, or permit to be conveyed or thrown therein any rubbish, dirt, filth, dead animal, or other noisome thing.

31. Bathing prohibited except in approved places

Bathing in any watercourse, reservoir, aqueduct or any waterworks within a catchment area is prohibited except in the places and under the conditions as the CEO may from time to time specify.

32. Inspectors etc., powers of entry

- (1) It is lawful for an inspector or any assistant acting under the directions of an inspector or other officer authorised by the CEO, at any reasonable hour, with or without notice, to enter any land, house, or premises for the purpose of ascertaining whether any act or thing is being done or permitted or left within that land, or house, or those premises in breach of these by-laws and to remove or cause to be removed anything so done, permitted or left thereon in breach of these by-laws, or to take steps as he may deem necessary for carrying out these provisions.
- (2) The cost of removal or other necessary act shall be borne by the owner or occupier of the premises upon which the breach occurs.

33. Compliance, CEO to fix time for

Unless otherwise provided for, the time which may elapse between the giving of a notice and the doing of a thing required to be done by any inspector or other authorised officer shall be determined by the CEO according to the nature of each case.

34. Timber cutting and clearing without permission

- (1) No person, whether in possession of a timber cutter's licence or not, shall cut or hew timber or destroy any trees, shrubs or vegetation of any kind or carry out any clearing of any kind, on any catchment area unless authorised so to do by the CEO.

-
- (2) A person does not need to be authorised by the CEO to do an activity referred to in sub-bylaw (1) in a special provision catchment area if the person —
- (a) is a member of the Noongar people; and
 - (b) undertakes the activity for an Aboriginal customary purpose; and
 - (c) in undertaking the activity does not enter into or upon a reservoir or watercourse.

35. Hunting, shooting and fishing, CEO may restrict

- (1) In this by-law —
- hand-held tool** does not include —
- (a) a firearm or any other device from which an object is discharged; or
 - (b) a spear, boomerang or any other thing that is propelled from the hand.
- (2) The CEO may from time to time prescribe restrictions on hunting, shooting and fishing in the catchment area.
- (3) A restriction prescribed under this by-law does not operate to prevent a person from hunting for an invertebrate or egg in a special provision catchment area if the person —
- (a) is a member of the Noongar people; and
 - (b) does so for an Aboriginal customary purpose; and
 - (c) does so only by hand or with a hand-held tool; and
 - (d) in doing so does not enter into or upon a reservoir or watercourse; and
 - (e) in doing so does not allow any hand-held tool to enter into or upon a reservoir or watercourse; and
 - (f) does not sell the invertebrate or egg.

bl. 3

36. Camping and picnicking restricted

- (1) No person, body corporate or association or group of persons shall at any time camp or picnic within 300 m of the high-water mark or of any well or bore or any reservoir or feeder thereto.
- (2) The CEO may from time to time by notices erected in a catchment area, further restrict camping and picnicking in the catchment area.

Division 3 — Protection of water supplies and Minister and Corporation property

[37 - 39. Deleted]

40. Flora protected

- (1) The removal, plucking, or damaging of any wild flower, shrub, bush, tree, or other plant, growing on any land or reserve under the care, control and management of the Corporation or the Minister, within 800 m of any reservoir or bore is prohibited.
- (2) A person does not contravene sub-bylaw (1) by removing, plucking, or damaging a wild flower, shrub, bush, tree, or other plant in the South west settlement area if the person —

 - (a) is a member of the Noongar people; and
 - (b) does so for an Aboriginal customary purpose; and
 - (c) in doing so does not enter into or upon a reservoir or watercourse; and
 - (d) in doing so does not cause damage to, or adversely affect, any water works.

bl. 3

Division 7 — Miscellaneous

[89. omitted. 97 - 104D deleted.]

105. Penalties

- (1) A person who contravenes or commits a breach of any provision of these by-laws, whether by act or omission, for which a penalty is not expressly prescribed, is liable, on conviction, to a penalty not exceeding \$200, and in the case of a continuing contravention or breach, to a further penalty not exceeding \$50 for each day during which the offence continues after notice of the contravention or breach is given by or on behalf of the Corporation or the Minister to that person.
- (2) In addition to any penalty provided by these by-laws, any expense, loss or damage incurred by the Corporation or the Minister in consequence of the breach of any by-law shall be paid by the person committing the breach and recoverable in the same manner as compensation may be recovered under section 45(3) of the principal Act.

Schedule 1 — Description of South west settlement area

[bl.1A(1)]

All the lands and waters contained within a line that —

- starts at the intersection of the prolongation westerly of the northern boundary of the Shire of Coorow with the low water mark, being a point on a northern boundary of native title determination application WAD6192/1998 (WC97/71) as accepted for registration on the Register of Native Title Claims on 22 August 1997;
- then continues generally easterly and generally south-easterly along the boundaries of that native title application to the intersection with native title determination application WAD6181/1998 (WC00/7) as accepted for registration on the Register of Native Title Claims on 3 July 2008;
- then continues generally easterly, generally south-easterly and westerly along the boundaries of that native title application to the intersection with native title determination application WAD6286/1998 (WC98/70) as accepted for registration on the Register of Native Title Claims on 29 September 1998;
- then continues generally southerly along the boundaries of that native title application to the intersection with the low water mark;
- then continues generally south-westerly, generally north-westerly and generally northerly along the low water mark back to the starting point.

other than any land or waters the subject of native title determination application WAD6193/1998 (WC97/72-6) as accepted for registration on the Register of Native Title Claims on 12 December 2011.

And all the islands landward of the low water mark that exist within the area contained within a line that —

- starts at the intersection of the prolongation westerly of the northern boundary of the Shire of Coorow with the low water mark;

bl. 3

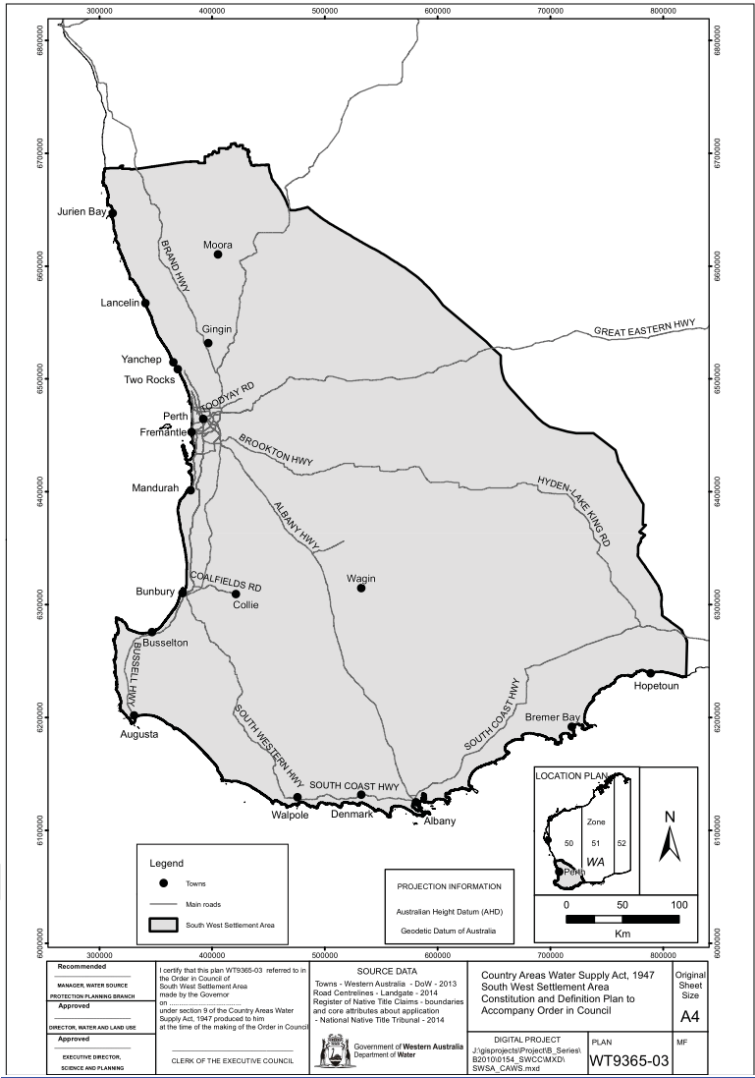
- then continues generally southerly, generally south-easterly and generally north-easterly along the low water mark to the intersection with longitude 120.465236;
- then continues southerly to the intersection of the 3 nautical mile limit with longitude 120.465236;
- then continues generally south-westerly, generally north-westerly and generally northerly along the 3 nautical mile limit to the prolongation westerly of the northern boundary of the Shire of Coorow;
- then continues easterly along that prolongation back to the starting point.

Notes:

1. The low water mark is sourced from the Spatial Cadastral Database maintained by the Western Australian Land Information Authority as at 29 October 2012.
2. Coordinate references are to Geocentric Datum of Australia 1994 (GDA94) coordinates in decimal degrees.
3. The 3 nautical mile limit is sourced from Australian Maritime Boundaries (AMB), 6th edition, released in February 2006.

Schedule 2 — Map of South west settlement area

[bl.1.1]



bl. 3

[No proposed amendment to Schedule 4.]

Minister for Water.

Clerk of the Executive Council.

Part B

Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws

[Page intentionally left blank - see next page]

Metropolitan Water Supply, Sewerage, and Drainage Act 1909
Water Agencies (Powers) Act 1984

Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws 2014

Made by the Minister under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* section 146 and the *Water Agencies (Powers) Act 1984* section 34.

1. Citation

These by-laws are the *Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws 2014*.

2. Commencement

These by-laws come into operation as follows —

- (a) by-laws 1 and 2 — on the day on which these by-laws are published in the *Gazette*;
- (b) the rest of the by-laws — on the day after that day.

3. By-laws amended

These by-laws amend the *Metropolitan Water Supply, Sewerage and Drainage By-laws 1981*.

[The following shows how the By-laws would look after the proposed amendments. The formal amendments needed to produce the desired result will be drafted when it has been agreed how those amendments should end up looking.]

Metropolitan Water Supply, Sewerage and Drainage By-laws 1981

Preliminary and definitions

1.0 Citation

These by-laws may be cited as the *Metropolitan Water Supply, Sewerage and Drainage By-laws 1981* and shall come into operation on 1 March 1981.

1.1 Terms used

In these by-laws, unless the context otherwise requires —

Aboriginal customary purpose means —

- (a) preparing or consuming food customarily eaten by Aboriginal persons; or
- (b) preparing or using medicine customarily used by Aboriginal persons; or
- (c) engaging in artistic, ceremonial or other cultural activities customarily engaged in by Aboriginal persons; or
- (d) engaging in activities incidental to a purpose stated in paragraph (a), (b) or (c);

Act means the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*, as amended from time to time;

bore, diameter or *size*, in reference to —

- (a) any pipe of copper or brass, means the external diameter of the pipe; and
- (b) any pipe of any other material, means the internal diameter of the pipe;

Corporation means the Water Corporation established by the *Water Corporations Act 1995* section 4(1);

Dangerous Goods Storage Regulations means the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007*;

designated camping site means an area designated under by-law 4.11.2 to be a camping site for Noongar people;

domestic sewage means all faecal matter, urine, household slops and household liquid refuse;

feeder means any water course, creek, stream or other channel with either perennial or intermittent flow whereby water can be conveyed to any reservoir;

ground means the surface of the earth, soil, or rock which conform to the established finished grade at a specific location after all excavations have been thoroughly backfilled or otherwise closed and after all surface treatment at said location has been completed;

high-water mark means the level of full supply of any reservoir or feeder thereto;

industrial waste means the liquid, solid or gaseous refuse from any business, industry, warehouse or manufacturing premises other than domestic sewage, stormwater, or unpolluted water;

liquid waste means liquid wastes as defined in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* regulation 3;

Noongar people means the traditional owners of the lands in the South west settlement area;

observation well means a well constructed for the purposes of observing the depth to the ground water from the top of the well, and for obtaining samples of the ground water;

pesticides means a substance or compound used or intended for use for agricultural, pastoral, horticultural, domestic, or industrial purposes for controlling, destroying or preventing the growth and development of any fungus, virus, insect, mite, mollusc, nematode, plant or animal and includes all admixtures containing any proportion of any one or more of them;

bl. 3

petroleum product has the meaning given in the Dangerous Goods Storage Regulations regulation 4;

production well means a well owned and operated by the Corporation and from which groundwater is extracted for the provision of a public water supply;

registered Aboriginal site means a place in the register maintained under the *Aboriginal Heritage Act 1972* section 38;

South west settlement area means the area of lands described in Schedule 1 and shown, for information purposes, on the map in Schedule 2;

special provision catchment area means a catchment area, or water reserve from which water can flow into an existing reservoir, within the South west settlement area;

underground storage or handling system means an underground storage or handling system as defined in the Dangerous Goods Storage Regulations regulation 4;

underground water means all water that is below the surface of the ground, whether or not flowing or in defined channels;

works has the meaning given in the *Water Agencies (Powers) Act 1984* section 3(1).

4.0 Protection of catchment areas and water reserves

4.1 Object of this Part

- 4.1.1 The by-laws contained in this Part are intended to —
- (a) prevent any deterioration of the quality of water collected from the Minister's catchment areas and water reserves by way of increased bacteriological or chemical contamination, increased turbidity, or increased level of nutrients necessary to the growth of undesirable aquatic flora;
 - (b) control and manage existing and future development within the catchments and water reserves that could adversely affect water quality;
 - (c) regulate the behaviour of persons entering the catchment areas.
- 4.1.2 Attention is drawn to by-law 31.4 regarding penalties that may be imposed for breaches of these by-laws.

4.2 Application of this Part

- 4.2.1 The by-laws in this Part apply to water reserves and catchment areas constituted under the Act and within which surface or sub-surface water may be collected into an open storage reservoir before distribution to consumers.
- 4.2.2 In this Part —
- 4.2.2.1 All by-laws applicable to a catchment area shall apply equally to any part of a water reserve from which water can flow into an existing storage reservoir.
- 4.2.2.2 Prohibited zone means that part of a catchment area which lies —
- (a) upstream of a dam; and
 - (b) within 2 km of the top water level of any reservoir in which water is or can be stored.

bl. 3

- 4.2.2.3 Public road means a road or street as defined in the Local Government Act.

4.3 Catchment areas etc., protection of

- 4.3.1 No person shall throw, deposit, discharge or leave or cause, permit or suffer to be thrown, deposited, discharged or left into or upon a catchment area or water reserve any chemical, radioactive material, litter, rubbish, offal, dung, dead animal or any noisome, noxious or polluting liquid substance, matter, or thing which is likely to pollute the catchment area or water reserve or any reservoir or watercourse in the catchment area, or which is likely to affect purity of the water.
- 4.3.2 No person shall swim, bathe, or have any bodily contact with the water or wash any clothes or other articles in any stream, reservoir, aqueduct or other water works within a catchment area.
- 4.3.3 No person shall in or upon any watercourse, lake, reservoir, aqueduct or other water works in a catchment area set afloat, sail, propel or cause to be propelled any craft or vessel, without express permission in writing from the CEO and subject to any conditions that it may deem necessary.
- 4.3.4 Subject to by-laws 4.11.5, 4.12.2 and 4.12.3, no ~~No~~-person shall camp, or shoot, trap or hunt any game or catch, or attempt to catch, any fish or marron within a catchment area, without specific permission in writing from the CEO to which it may attach any conditions that it deems necessary.
- 4.3.5 Subject to by-law 4.13, no ~~No~~-person shall light a fire on Crown land in a prohibited ~~S~~4.3.6 zone on a catchment area except in the fire places provided at authorised picnic sites unless with the written approval of the CEO, and any person lighting fires at other places on a catchment area shall comply fully with all requirements of the Bush Fires Act 1954 ~~Bush Fires Act~~³-or restrictions promulgated under that Act.

- 4.3.6 Subject to by-law 4.14, no ~~No~~ unauthorised person shall enter Crown land within a prohibited zone on any catchment area except for the purposes of —
- (a) travelling through the prohibited area on public roads; or
 - (b) travelling along private roads constructed by the State and which are open for public use; or
 - (c) picnicking within designated picnic sites provided and serviced by the State.
- 4.3.7 No picnic area or amenity to encourage picnicking or public recreation is to be established in any catchment area or water reserve without the written approval of the Minister.
- 4.4 Sewage, liquid waste and solid refuse**
- 4.4.1 No person shall permit the water of any property sewer or any filthy or polluted water discharging from premises occupied by him or under his control, to run, flow, or be brought into any reservoir or watercourse in any catchment area or water reserve.
- 4.4.2 Disposal of domestic sewage on catchment areas and water reserves.
- 4.4.2.1 All domestic sewage and liquid waste shall be treated and disposed of in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.
- 4.4.2.2 Prior approval in writing must be obtained from the CEO before a bacteriolytic treatment plant is installed within a prohibited zone or within 100 m of the centre line of any watercourse.
- 4.4.2.3 Any liquid waste not processed through a bacteriolytic treatment plant, or not capable of treatment in such a plant shall be stored in watertight tanks or receptacles (which shall be maintained in good condition) and periodically removed from the catchment area by a liquid waste removal contractor approved by the appropriate Local Health Authority, and by the CEO.
- 4.4.3 The occupier of every house or premises shall provide and maintain in good condition a sufficient number of receptacles or

bl. 3

boxes to contain all solid refuse, and the contents of these receptacles or boxes shall be removed from the catchment area at least once every week.

4.5 Animals and birds

4.5.1 The owner or person in charge of any animals or birds shall not cause or permit any dog, horse, goat, cattle, sheep, pig, duck, geese or fowls or other species of livestock to enter or remain on any portion of a catchment area.

4.5.2 The occupier or owner of any land within a catchment area shall not raise or graze livestock without approval of the CEO.

4.5.3 No person shall ride a horse or any other animal on any of the Minister's catchment areas (except along public roads) without the written permission of the CEO.

4.5.4 Any animal or bird found straying within a catchment area may be —

- (a) driven away or otherwise removed from such lands; or
- (b) sold; or
- (c) destroyed; or
- (d) otherwise disposed of,

by any officer or person authorised by the CEO without incurring any liability on the part of the State to recompense the owner for the loss.

4.5.5 Subject to by-laws 4.12.2 and 4.12.3, no ~~No~~ person shall slaughter any animal or bird in a catchment area without the permission of the CEO.

- 4.5.6 The owner of any animal or bird which dies upon any part of a catchment area or the person under whose charge the animal was at or immediately before the time of its death, shall forthwith upon knowing or being informed of the death of the animal or bird remove its body or carcass from the catchment area or bury the same so that all parts of the carcass are not less than 300 mm below the normal surface and restore the ground at least to its original level except that no animal or bird shall be buried within a prohibited zone or within 100 m of the centre line of any watercourse.

4.6 Manure, fertilizers, chemicals, petrol etc.

- 4.6.1 The occupier or owner of any house, land or premises situated within a catchment area shall not store or use any animal manure or fertilizer without written permission of the CEO.
- 4.6.2 No person shall lay, place or use upon any part of the catchment area any poison, pesticide, insecticide, herbicide or other dangerous substances without written permission of the CEO and then they shall be applied in the manner required by the *Health (Pesticides) Regulations 2011*.
- 4.6.3 All persons storing, laying, placing or using any explosive or dangerous goods on a catchment area shall comply with the requirements of the *Dangerous Goods Safety Act 2004*.
- 4.6.4 No toxic, dangerous chemicals or radioactive materials are to be stored on the catchment areas without the prior written approval of the CEO.
- 4.6.5 Storage of Petroleum Products on Catchment Areas and Water Reserves
- 4.6.5.1 A person storing or handling petroleum products is to ensure that —
- (a) the petroleum products are stored and handled in accordance with the Dangerous Goods Storage Regulations; and

bl. 3

- (b) no underground storage or handling system is situated within a prohibited zone or within 100 m of the centre line of any watercourse; and
- (c) no underground storage or handling system is constructed without the prior written approval of the CEO; and
- (d) each underground storage or handling system is designed, installed, operated and maintained so that it does not leak; and
- (e) any conditions set out in a written notice given to the person by the CEO are complied with.

4.6.5.2 A person storing petroleum products on premises that are not the subject of a licence granted under the Dangerous Goods Storage Regulations regulation 32 is to —

- (a) take all precautions necessary to prevent spillage of petroleum products onto the ground; and
- (b) comply with any requirement of the CEO to install containment structures on the premises.

4.7 Clearing, road construction, vehicles etc.

- 4.7.1 No person shall clear any portion of the catchment area or commence any excavation or any construction, alteration or diversion of roads in the catchment area without the prior written approval of the CEO.
- 4.7.2 No person shall drive a vehicle on any part of a catchment area other than a road or track which has a graded, gravelled, sealed, primed or other prepared surface without written approval of the CEO.
- 4.7.3 No person or organisation shall conduct a vehicle rally or race on a catchment area without the prior written approval of the CEO.

4.8 Development, mining, offensive trades etc.

- 4.8.1 No person shall commence, carry out, change or expand any agricultural, industrial, commercial, quarrying or mining development in a catchment area without the written approval of the CEO.
- 4.8.2 No person is to establish or carry on an offensive trade as defined in the *Health Act 1911* on a catchment area or water reserve without the written approval of the CEO.
- 4.8.3 No person shall commence or proceed with the erection of a building or structure of any kind or any alterations or additions to a building or structure on a catchment area or water reserve without the written approval of the CEO.
- 4.8.4 The occupier or owner of premises in a catchment area shall maintain those premises at all times to the standards required by the *Health Act 1911* or the relevant regulations made under that Act.

4.9 Remedying damage etc., CEO's powers for

- 4.9.1 If any person commits an offence under Part 4, the CEO, upon discovery of that offence, may serve notice on the offending person to restore any damage, remove any cause of pollution, or dismantle any building carried out in contravention of these by-laws by a nominated date.
- 4.9.2 A person who fails to comply with a notice served on that person under this by-law commits an offence.

4.10 Signs; rangers' powers

- 4.10.1 The CEO may erect signs at any position in the catchment areas or water reserves that it considers necessary to control the activities of persons or movement of vehicles entering onto or moving across the catchment areas or water reserves.
- 4.10.2 Any person driving or taking a vehicle, trailer, or item of mobile equipment onto or across a catchment area shall comply with all

bl. 4.11

signs erected to control the speed, movement or parking of vehicles, trailers or mobile equipment.

4.10.3 Powers of a Ranger

4.10.3.1 Rangers and other persons authorised by the CEO are empowered to demand the name and address of any person committing or reasonably suspected of committing an offence against the Act or these by-laws relating to catchment areas and water reserves.

4.10.3.2 Any person who refuses to give, or gives a false name or address when such is requested by a Ranger or other authorised person is deemed to commit an offence under these by-laws.

4.11 Designated camping sites for Noongar people

4.11.1 In this by-law —

CALM Act land means land to which the *Conservation and Land Management Act 1984* applies under section 5 of that Act;

CALM Act Minister means the Minister to whom the administration of the *Conservation and Land Management Act 1984* is for the time being committed by the Governor;

wellhead protection zone —

(a) within a pollution area — has the meaning given in by-law 5.6.1; and

(b) within a water reserve — means an area identified as a wellhead protection zone in the drinking water source protection plan for the water reserve published on the Department's website.

4.11.2 Subject to by-law 4.11.3, the Minister may, by notice published in the *Gazette*, designate all or part of a special provision catchment area to be a camping site for the Noongar people.

4.11.3 The Minister must not —

bl. 4.12

- (a) designate CALM Act land to be a camping site under this by-law without the written consent of the CALM Act Minister; or
- (b) designate a prohibited zone to be a camping site under this by-law; or
- (c) designate a wellhead protection zone within a pollution area or within a water reserve to be a camping site under this by-law.

4.11.4 The CEO must ensure that sufficient signs are erected and maintained in the vicinity of a designated camping site indicating that the area is a designated camping site for the Noongar people.

4.11.5 A person does not breach by-law 4.3.4 by camping in a special provision catchment area if the person —

- (a) is a member of the Noongar people; and
- (b) camps in a designated camping site.

4.12 Customary hunting by Noongar people

4.12.1 In this by-law —

hand-held tool does not include —

- (a) a firearm or any other device from which an object is discharged; or
- (b) a spear, boomerang or any other thing that is propelled from the hand;

take means trap, hunt or slaughter.

4.12.2 A person does not breach by-law 4.3.4 or 4.5.5 by taking an invertebrate or egg, as the case may be, in a prohibited zone in a special provision catchment area if the person —

- (a) is a member of the Noongar people; and
- (b) does so on a registered Aboriginal site; and
- (c) does so for an Aboriginal customary purpose; and
- (d) does so only by hand or with a hand-held tool; and

bl. 4.13

- (e) in doing so does not enter into or upon a stream, reservoir or watercourse; and
- (f) in doing so does not allow a hand-held tool to enter into a stream, reservoir or watercourse; and
- (g) does not sell the invertebrate or egg.

4.12.3 A person does not breach by-law 4.3.4 or 4.5.5 by taking an invertebrate or egg, as the case may be, in a special provision catchment area, other than in a prohibited zone in that area, if the person —

- (a) is a member of the Noongar people; and
- (b) does so for an Aboriginal customary purpose; and
- (c) does so only by hand or with a hand-held tool; and
- (d) in doing so does not enter into or upon a stream, reservoir or watercourse; and
- (e) in doing so does not allow a hand-held tool to enter into a stream, reservoir or watercourse; and
- (f) does not sell the invertebrate or egg.

4.13 Noongar people lighting fires for customary purposes

A person does not need approval under by-law 4.3.5 to light a fire on Crown land in a prohibited zone on a special provision catchment area if the person —

- (a) is a member of the Noongar people; and
- (b) does so on a registered Aboriginal site; and
- (c) does so for an Aboriginal customary purpose; and
- (d) in doing so does not enter into or upon a stream, reservoir or watercourse.

4.14 Entry to Aboriginal sites by Noongar people

A person who enters Crown land within a prohibited zone on a special provision catchment area does not breach by-law 4.3.6 if —

bl. 4.14

-
- (a) the person is a member of the Noongar people; and
 - (b) the person is travelling directly to or from, or is on, a registered Aboriginal site within the prohibited zone; and
 - (c) while on the land, the person does not enter into or upon a stream, watercourse or reservoir.
-

bl. 4.14

**5.0 Protection of public water supply areas and
underground water pollution control areas**

5.1 Object of this Part; CEO may erect signs

5.1.1 The objectives of the by-laws in Part 5 are —

[(a) deleted]

- (b) to protect the Minister's production and observation wells from damage or pollution;
- (c) to prevent contamination of underground water in the pollution control areas;
- (d) to control development over the areas so as to prevent or inhibit contamination.

5.1.2 Penalties for breaches of any by-laws in Part 5 shall be as set out in section 57B(4) of the Act.

5.1.3 The CEO may erect signs and notice boards in any pollution area for the exhibition of any by-law, rule, regulation or notice.

*[By-law 5.1 amended in Gazette 29 Dec 1995 p. 6325-6;
21 Apr 2011 p. 1479 and 1482; 14 Nov 2013 p. 5055.]*

[5.2 Deleted in Gazette 14 Nov 2013 p. 5055.]

5.3 Causing flooding of wells etc.

5.3.1 A person shall not construct, alter or obstruct any watercourse, or drainage assets in a manner that causes the flooding of any well or observation well.

5.4 Pollution areas, production wells etc., protection of

5.4.1 In a pollution area the use, storage and transport of pesticides, the disposal of pesticide containers and the disposal of spilled pesticides shall be in compliance with the *Health (Pesticides) Regulations 2011*.

bl. 4.14

- 5.4.2 In a pollution area a person shall not store animal manures or sewage sludges within 100 m of a production well except with the approval of the CEO.
- 5.4.3 In a pollution area a person shall not carry out the burial or disposal of animal or poultry carcasses, blood offal, or other refuse products in excess of 2 t, unless prior approval has been obtained from the CEO.
- 5.4.4 In a pollution area a person shall not yard or house an animal within 30 m of a production well.
- 5.4.5 In a pollution area installation or operation of septic tanks, leach drains, soakwells and other apparatus for the disposal of liquid waste shall be carried out in conformity with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* as amended from time to time and where the site is within 100 m of a production well a person shall obtain prior consent for the installation or operation from the CEO who may impose further conditions and restrictions as to the siting, construction or operation of the apparatus, in which event the State shall meet any consequential extra cost incurred in the initial construction of the apparatus.
- 5.4.6 In a pollution area or a part of a pollution area a person shall not dispose of or discharge onto or into the ground, or into any lake, swamp or drain industrial wastes, chemicals, radioactive material, petroleum or petroleum products, polluted water, or refuse unless that person has been granted permission in writing by the CEO to do so.
- 5.4.7 A person shall not discharge into any well or observation well any chemical, industrial waste, treated or untreated sewage, effluent or other matter which in the opinion of the CEO may pollute the underground water.
- 5.4.8A A person shall not place any chemical or other substance that is capable of polluting underground water, down a well during the course of its construction, redevelopment, maintenance or operation without prior approval of the CEO.

bl. 4.14

5.4.8 The holder of a permit referred to in by-law 5.5.2, shall notify the CEO and the Corporation immediately any spillage occurs that might pollute the groundwater, either directly or indirectly, and where that spillage occurs.

5.4.9 Any person spilling, or being aware of any leakage of, any petroleum product in a pollution area shall notify the CEO and the Corporation immediately of that occurrence.

5.5 Pollution areas, development and storing petrol etc. in

5.5.1 A person shall not establish an offensive trade in accordance with the provisions of the *Health Act 1911*, in a pollution area, unless they have obtained the consent of the Minister to do so, and unless they comply with any conditions which the Minister may impose in relation to the establishment of that offensive trade.

5.5.2 The establishment or operation of any premises for the storage, packaging, formulating, processing, manufacturing, sale, testing or use of chemicals or other substances liable to pollute underground water in a pollution area shall be subject to the following terms, provisions and conditions —

- (a) application shall be made to the Minister in writing for a permit to operate existing or proposed premises and the application shall set out —
 - (i) the process or processes of manufacture, packaging, storage, formulating, testing, or use of all raw materials and fuels, intermediate products and final products including waste material and effluents whether gaseous, liquid or solid;
 - (ii) the quantities of raw materials, and fuels used and the intermediate and final products, waste materials, effluents, being or proposed to be produced;
 - (iii) the methods proposed to treat and dispose of any wastes, by-products and effluents, including

- stormwater and wash down water where this may be or could become polluted;
- (iv) plans and procedures proposed to prevent pollution of underground water, including emergency plans and procedures for contingencies such as accidental spillage or malfunction of any manufacturing, storage, transport or treatment process or system, both on and off the premises where this is applicable;
 - (v) such other information required by the Minister to assess the pollution risk to underground water and to assist with measures to prevent pollution;
- (b) upon receipt of the permit for the operation of the premises the applicant shall enter into a written agreement with the Minister to comply with the conditions of the permit which may where so required include conditions that where at any time in the opinion of the Minister —
- (i) the occupier is not fully and faithfully performing and observing the terms, provisions and conditions of the permit or any by-law; or
 - (ii) the raw materials, intermediate products and final products, wastes, effluents, fuels or any other substances are not in compliance with the terms, provisions or conditions of the permit; or
 - (iii) the apparatus, the subject of the permit is not in efficient working order; or
 - (iv) pollution of the groundwater may be occurring or about to occur; or
 - (v) any other breach of the agreement has been made,
- the Minister may serve a notice in writing upon the occupier of the property, by delivering it or posting it addressed to him at the property, specifying the matter or matters in respect of which a breach has taken place, or as to which the occupier is in default, or concerning

bl. 4.14

- which there is any complaint by the Minister, and the notice shall require the occupier to make good the same in all things to the satisfaction of the Minister, within a period to be stated therein, from the date of service thereof in a manner so specified, and the notice shall also state that the Minister is at liberty to terminate and put an end to the permit;
- (c) the occupier shall notify the Minister in writing of his desire to make any alteration which shall in any way affect the nature and quantity of the raw materials, fuels, intermediate and final products, wastes and effluents, or the apparatus plans and procedures the subject of the permit, and which may affect the risk of pollution to underground water, and shall not make such an alteration without prior approval in writing from the Minister;
 - (d) the person to whom the permit is granted shall notify the Minister in writing of any change of ownership or occupancy of the property, at least 14 days prior to the change;
 - (e) the permit shall not be assigned or transferred, unless the consent of the Minister in writing has been first obtained;
 - (f) the Minister may require the owner or occupier of any premises the subject of a permit from the Minister to install sample collection apparatus, measuring equipment and observation wells in the ground for the purpose of measuring the depth to the ground water and for obtaining samples of ground water, or for any other purpose;
 - (g) an officer authorised by the CEO shall be at liberty at any time and from time to time to enter upon the property and every part thereof and to take samples or measurements and otherwise to inspect the apparatus stored or situated on the property.

- 5.5.3 Where the requirements of a notice referred to in by-law 5.5.2(b) have not been complied with on the expiration of the period mentioned therein, the permit shall automatically terminate, and an officer authorised by the CEO may enter upon the property, and at the expense of the occupier disconnect or stop the apparatus used and take such other action as may be deemed necessary to prevent or stop pollution of groundwater that may be occurring or which might occur, and the occupier shall not be entitled to compensation in connection therewith.
- 5.5.4 A person storing or handling petroleum products or flammable liquids in a pollution area is to ensure that —
- (a) the petroleum products or flammable liquids are stored and handled in accordance with the Dangerous Goods Storage Regulations; and
 - (b) no underground storage or handling system is situated within a prohibited zone or within 100 m of a production well; and
 - (c) no underground storage or handling system is constructed without the prior written approval of the CEO; and
 - (d) each underground storage or handling system is designed, installed, operated and maintained so that it does not leak; and
 - (e) no flammable liquid is stored without the prior written approval of the CEO; and
 - (e) any conditions set out in a written notice given to the person by the CEO are complied with.
- 5.5.5 A person storing petroleum products in a pollution area on premises that are not the subject of a licence granted under the Dangerous Goods Storage Regulations regulation 32 is to —
- (a) take all precautions necessary to prevent spillage of petroleum products onto the ground; and
 - (b) comply with any requirement of the CEO to install containment structures on the premises.

bl. 4.14

5.6 Priority source protection areas, control of certain developments in

5.6.1 In this by-law and by-laws 5.6.2, 5.6.3, 5.6.4, 5.6.5, 5.6.6, 5.6.7 and 5.6.8 —

automotive business premises means premises associated with the repair, maintenance or servicing of motor vehicles and includes premises that are to be used as or by any of the following —

- (a) an automotive maintenance and repair shop or premises where motor vehicle parts are installed; or
- (b) a motor vehicle detailer, a car wash establishment, a motor vehicle wrecker or a vehicle depot; or
- (c) a workshop for construction, mining and earthmoving equipment; or
- (d) a wholesaler or retailer of fuels and oils;

bulk liquid storage tank system means any tank, whether or not mobile, having a capacity of or greater than 250 L, and includes the pipework fittings and filling and dispensing apparatus associated with the tank, but does not include a tank that is part of any apparatus for the bacteriolytic treatment of sewage or that contains unpolluted water;

elevated storage tank system means a bulk liquid storage tank system in which no portion of the tank is on or below the ground;

establish, in relation to a mobile bulk liquid storage tank system, includes placing that storage tank system at a location where it will operate for a purpose other than the delivery to, or collection from, another bulk liquid storage tank system;

ground storage tank system means a bulk liquid storage tank system in which any portion of the tank is on or below the ground;

owner has the meaning given in the *Local Government Act 1995* section 1.4;

plans means the plans showing the locations of pollution areas, priority 1, 2 and 3 source protection areas, wellheads and wellhead protection zones, copies of which are available for public inspection at the offices of the Department, and representations of which are set out in the Schedule after by-law 5.6.8;

priority 1 source protection area, priority 2 source protection area and priority 3 source protection area mean the portions of pollution areas designated, respectively, “P1”, “P2” and “P3” on the plans;

tank includes all the tanks that are connected in, or otherwise form part of, the same bulk liquid storage tank system;

unpolluted water means water that, if released from storage, would not contaminate groundwater or other water resources;

wellhead means a well, or the location of a proposed well, identified on the plans by its name adjacent to a black circle;

wellhead protection zone means that area within a pollution area that surrounds a wellhead, the extent of which is identified on the plans.

5.6.2 Regardless of any other provision of these by-laws, a person shall not establish within a priority 1 or a priority 2 source protection area —

- (a) a ground storage tank system; or
- (b) any automotive business premises; or
- (c) an elevated storage tank system inside a wellhead protection zone.

5.6.3 A person shall not establish, or increase the capacity of, an elevated storage tank system within a priority 1 or priority 2 source protection area unless —

- (a) the person has applied for a permit under by-law 5.6.4; and

bl. 4.14

- (b) the Minister has issued a permit authorising the establishment, or increase in capacity, of the storage tank system; and
 - (c) the person complies with the terms and conditions of the permit.
- 5.6.4 An application for a permit to establish, or increase the capacity of, an elevated storage tank system on land within a priority 1 or priority 2 source protection area shall be made —
 - (a) in writing to the Minister; and
 - (b) by the owner of the land or, if the owner is not the occupier, by the occupier of the land.
- 5.6.5 The Minister may only issue a permit applied for under by-law 5.6.4 —
 - (a) for an elevated storage tank system that, including any proposed increase in capacity, does not exceed 5 000 L, unless the Minister is satisfied that there are special circumstances relevant to the issue of that permit; and
 - (b) if, regardless of the present or proposed capacity of the elevated storage tank system the subject of the application, the Minister is satisfied that there is no undue risk that the purity of underground water in the source protection area in which the storage tank system is to be established, or increased in capacity, will be affected detrimentally, either directly or indirectly, by the establishment, or increase in capacity, of that storage tank system.
- 5.6.6 By-laws 5.5.2 (other than paragraph (a)) and 5.5.3, as they relate to permits, apply, to the extent that they are applicable and with appropriate modifications, to a permit applied for under by-law 5.6.4.
- 5.6.7 The CEO, by notice in writing served on a person who, in contravention of by-law 5.6.2 or 5.6.3, as the case may be —

bl. 4.14

- (a) has established, or increased the capacity of, a storage tank system; or
- (b) has established any automotive business premises,

may direct that person within such period, being not less than 21 days after the service of the notice, as specified in the notice, to dismantle and remove the storage tank system or the business premises.

5.6.8 If a person fails to comply with a notice served on that person under by-law 5.6.7 —

- (a) the person commits an offence; and
- (b) an officer authorised by the CEO may dismantle and remove the storage tank system or the business premises the subject of the offence.

[The schedule after this by-law has been omitted from this draft because there are no proposed changes to it.]

bl. 4.14

31.0 Offences and penalties

[31.1-31.3 Deleted in Gazette 14 Nov 2013 p. 5056.]

31.4 Penalties

- 31.4.1 A person committing a breach of any of the provisions of these by-laws, to which no specific penalty is attached shall be liable on summary conviction to a penalty not exceeding \$200.00 and in addition may be ordered to pay any expense incurred by the State in consequence of such breach.
- 31.4.2 In the case of a continuing breach the offender shall be liable in addition to the fine and payment of expenses to a daily penalty not exceeding \$50.00 for each day the breach continues after notice thereof has been given by or on behalf of the Minister or the CEO to the offender.

Schedule 1 — Description of South west settlement area

[bl.1.1]

All the lands and waters contained within a line that —

- starts at the intersection of the prolongation westerly of the northern boundary of the Shire of Coorow with the low water mark, being a point on a northern boundary of native title determination application WAD6192/1998 (WC97/71) as accepted for registration on the Register of Native Title Claims on 22 August 1997;
- then continues generally easterly and generally south-easterly along the boundaries of that native title application to the intersection with native title determination application WAD6181/1998 (WC00/7) as accepted for registration on the Register of Native Title Claims on 3 July 2008;
- then continues generally easterly, generally south-easterly and westerly along the boundaries of that native title application to the intersection with native title determination application WAD6286/1998 (WC98/70) as accepted for registration on the Register of Native Title Claims on 29 September 1998;
- then continues generally southerly along the boundaries of that native title application to the intersection with the low water mark;
- then continues generally south-westerly, generally north-westerly and generally northerly along the low water mark back to the starting point.

other than any land or waters the subject of native title determination application WAD6193/1998 (WC97/72-6) as accepted for registration on the Register of Native Title Claims on 12 December 2011.

And all the islands landward of the low water mark that exist within the area contained within a line that —

- starts at the intersection of the prolongation westerly of the northern boundary of the Shire of Coorow with the low water mark;

bl. 4.14

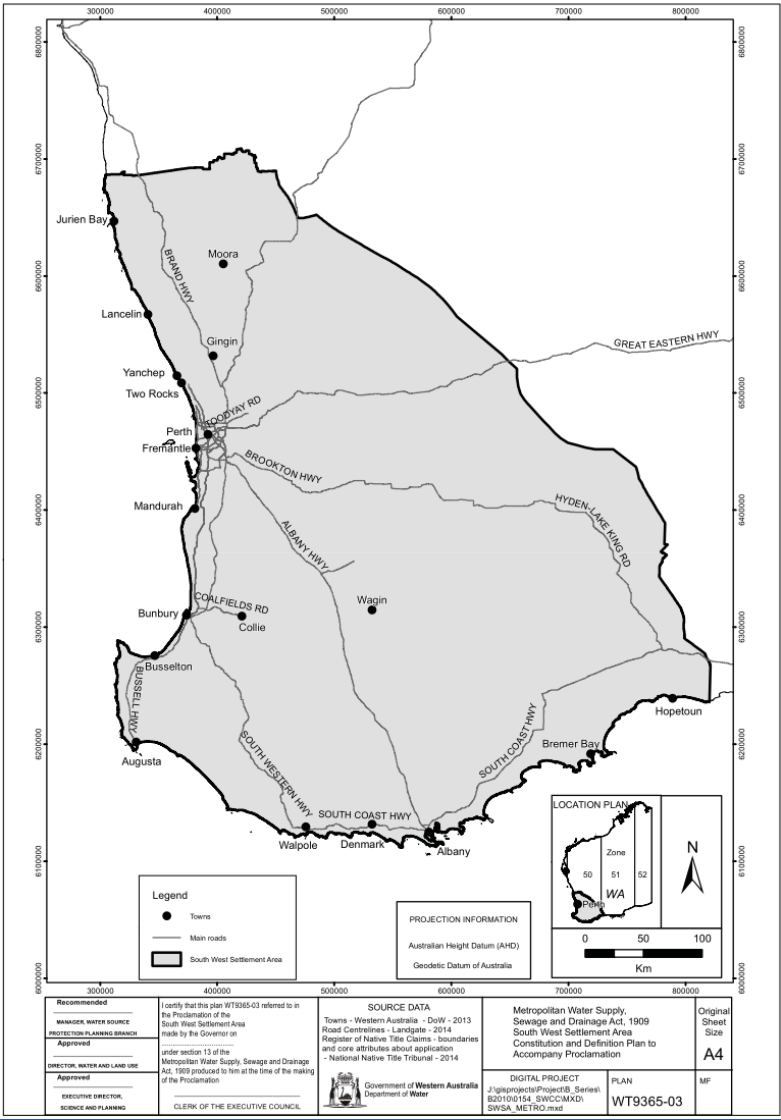
- then continues generally southerly, generally south-easterly and generally north-easterly along the low water mark to the intersection with longitude 120.465236;
- then continues southerly to the intersection of the 3 nautical mile limit with longitude 120.465236;
- then continues generally south-westerly, generally north-westerly and generally northerly along the 3 nautical mile limit to the prolongation westerly of the northern boundary of the Shire of Coorow;
- then continues easterly along that prolongation back to the starting point.

Notes:

1. The low water mark is sourced from the Spatial Cadastral Database maintained by the Western Australian Land Information Authority as at 29 October 2012.
2. Coordinate references are to Geocentric Datum of Australia 1994 (GDA94) coordinates in decimal degrees.
3. The 3 nautical mile limit is sourced from Australian Maritime Boundaries (AMB), 6th edition, released in February 2006.

Schedule 2 — Map of South west settlement area

[bl.1.1.1]



Minister for Water.

bl. 4.14

Clerk of the Executive Council.