



WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

1687



PERTH, WEDNESDAY, 11 MAY 2011 No. 77 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

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PLANNING AND DEVELOPMENT ACT 2005

STATE PLANNING POLICY 3.2
ABORIGINAL SETTLEMENTS

PREPARED UNDER PART 3 OF THE *PLANNING AND DEVELOPMENT ACT 2005* BY THE WESTERN AUSTRALIAN PLANNING COMMISSION.

PLANNING AND DEVELOPMENT ACT 2005

STATE PLANNING POLICY 3.2

ABORIGINAL SETTLEMENTS

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PLANNING AND DEVELOPMENT ACT 2005

STATE PLANNING POLICY 3.2

ABORIGINAL SETTLEMENTS**1. CITATION**

This is a state planning policy made under part 3 of the *Planning and Development Act 2005*. This policy may be cited as *State Planning Policy 3.2 Aboriginal Settlements*. It revokes *State Planning Policy 3.2 Planning for Aboriginal Communities* gazetted on 11 August 2000.

2 OBJECTIVES

2.1 To provide for the recognition of Aboriginal settlements through local planning schemes and strategies.

2.2 To collaboratively plan for the orderly and coordinated development of Aboriginal settlements.

3 BACKGROUND**Aboriginal settlements**

3.1 The remote regions of Western Australia (WA) are sparsely populated. Within this very expansive area urban places are limited to 43 towns (gazetted), 22 remote road houses, and up to 280 Aboriginal communities. It is estimated that of the 280 Aboriginal communities in WA that up to 150 may be characterised as Aboriginal settlements as defined in Attachment 1—Definitions, of this Policy.

3.2 The history and formation of Aboriginal settlements is varied. They may be former informal camps or ration depots on the outskirts of towns, religious-based missions, government institutions, station camps, or seasonal outstations. The social composition, tenure, and physical form of each settlement depends on its particular history and regional setting.

3.3 In general, Aboriginal settlements in WA are often remote from service and economic centres and have developed without formal town planning or the coordinated provision of essential services.

3.4 The majority of Aboriginal settlements either fall outside of, or are not recognised or zoned within, local planning schemes.

3.5 All remote road houses and a number of Aboriginal settlements are an essential element of the land and air transport networks in the remote regions and as such are essential to the State's economic wellbeing and emergency response capacity.

3.6 Aboriginal settlements are often a unique expression of the resilience of culture and the strength of commitment of traditional owners to country and as such are a valuable contribution to the social and cultural wealth of WA.

Aboriginal settlement planning

3.7 Aboriginal settlements are characterised by their low amenity. The historical absence of coordinated land use planning in consultation with resident communities and traditional owners has exacerbated difficulties including incompatible land uses, inappropriate location of housing, compromised and inefficient water and electricity supplies, and undefined roads.

3.8 The 1991 Royal Commission into Aboriginal Deaths in Custody among other things looked at the relationship between poor living conditions in remote settlements and compromised life chances for Aboriginals. One of the recommendations of the Royal Commission was that: 'the provision of housing and infrastructure to Aboriginal people in remote and discrete communities, including the design and location of houses, take account of their cultural perceptions of the use of living space, and that budgetary allocations include provision for appropriate architectural and town planning advice to, and consultation with, the serviced community.'

3.9 The State Planning Strategy has a vision for Western Australia to 2029 in which the land use planning system will facilitate and contribute to regional wealth, the conservation and enhancement of the environment, and the building of dynamic and safe communities.

3.10 There is a strong relationship between planning and environmental health outcomes. State and Commonwealth initiatives, most notably those through Council of Australian Governments (COAG) partnership agreements, aim to close the gap between Aboriginal and non-Aboriginal life chances and living arrangements. Appropriate land use planning is instrumental in achieving this.

3.11 Land use and survey plans have been produced for many Aboriginal settlements since the 1980s, prior to which development was largely ad-hoc. However, many earlier land use and survey plans did

not pay sufficient attention to issues such as socio-cultural composition, representative structures, regional context, land tenure or native title rights and interests.

3.12 The Western Australian Planning Commission (WAPC) has had the authority to endorse Community Layout Plans for Aboriginal settlements since the establishment of State Planning Policy 3.2 (version 1) in 2000.

3.13 State Planning Policy 3.2 (amended) is informed by recommendation of the Royal Commission into Aboriginal Deaths in Custody and the principles of the State Planning Strategy which seeks to improve the coordination of services and infrastructure to Aboriginal settlements via the land use planning system.

4 APPLICATION OF THE POLICY

4.1 This policy applies to the planning and development of Aboriginal settlements throughout Western Australia.

4.2 This policy does not apply to mining camps, tourism sites, or working pastoral settlements.

4.3 This policy should be read in conjunction with *State Planning Policy 3 Urban Growth and Settlement*.

5 DEFINITIONS

5.1 A schedule of definitions is at attachment 1.

6 POLICY MEASURES

Layout plans

Preparation

6.1 All Aboriginal settlements are to have an endorsed Layout Plan.

6.2 Layout Plans may be prepared for Aboriginal communities that exhibit special circumstances, such as a native title agreement that confers an undertaking of support by the State for development of a particular place.

6.3 Layout Plans are to be prepared in accordance with this policy and associated guidelines and are to comprise: a) map-set; b) background report, and; c) provisions.

6.4 Layout Plans are to reflect the growth aspirations of the resident community and traditional owners based on sound planning principles including consideration of known cultural, environmental, economic, tenure and infrastructure constraints, opportunities and requirements.

6.5 The Layout Plan map-set is to be based on appropriate spatial data and is to distinguish existing from proposed land uses.

6.6 The background report and provisions are to be prepared in accordance with WAPC specifications, which may be detailed as a guideline prepared under this policy.

6.7 A simplified version of a Layout Plan may be prepared if it is in accordance with a guideline prepared under this policy.

6.8 A drinking water source protection plan is to be prepared for each Aboriginal settlement and is to be incorporated into the Layout Plan.

Consultation

6.9 Consultation is to be undertaken with the resident community, traditional owners, local government and relevant key agencies and stakeholders in the preparation of Layout Plans.

6.10 Evidence of consultation must be included in the background report, which may be detailed as a guideline prepared under this policy.

Endorsement

6.11 The WAPC may endorse a Layout Plan if—

- (a) the Layout Plan is consistent with the provisions of this policy;
- (b) the relevant resident community has endorsed the Layout Plan;
- (c) the relevant local government has endorsed the Layout Plan, or in the case that the local government has not endorsed the Layout Plan, that the WAPC is satisfied that preparation of the Layout Plan has included appropriate consultation with the local government and that best endeavours were made to secure the endorsement of the local government, and;
- (d) the relevant traditional owners have endorsed the Layout Plan, or in the case that the traditional owners have not endorsed the Layout Plan, that the WAPC is satisfied that preparation of the Layout Plan has included appropriate consultation with the traditional owners and that best endeavours were made to secure the endorsement of the traditional owners.

6.12 Layout Plans endorsed prior to the application of this policy remain valid and may be amended, subject to the application of provisions 6.13 to 6.15 of this policy.

Amendments

6.13 An endorsed Layout Plan may be amended at the request of any interested party, subject to the application of provisions 6.9 to 6.12 of this policy.

6.14 If an amendment is considered to be minor in nature it may be completed without the application of provisions 6.9 to 6.12 of this policy, other than the requirement for endorsement by the WAPC.

6.15 Amendments to layout plans are to be recorded on the map-set.

Local planning scheme

6.16 Local government is to classify land as ‘settlement’ zone in a local planning scheme where—

- (a) a Layout Plan has been endorsed under this policy; and
- (b) a clear and appropriate area for a ‘settlement’ zone is defined and delineated in the endorsed layout plan.

6.17 A local planning scheme that includes a ‘settlement’ zone is to include provisions that require development to be in accordance with the endorsed Layout Plan.

Operational policies

6.18 *State Planning Policy 1 State Planning Framework Policy* provides for the preparation of operational policies to assist with the implementation of state planning policies. Operational policies supporting this policy are to be known as guidelines.

6.19 Guidelines may be prepared to address a range of matters relevant to this policy, including the preparation and implementation of Layout Plans and the provision of housing and infrastructure on Aboriginal settlements.

6.20 The drafting of guidelines may require consultation with other agencies where the ambit of the policy is directly relevant to that agency.

6.21 Guidelines are to be endorsed by the WAPC to have effect. Agencies consulted with in the preparation of the guidelines are to be advised by the WAPC when it has been endorsed.

7 IMPLEMENTATION

7.1 Implementation of this policy will be through related state planning policies, guidelines made under this policy, local planning schemes and strategies.

7.2 State agencies and local government will need to take into account this policy to ensure integrated decision-making in planning for Aboriginal settlements.

7.3 If the WAPC considers that land tenure changes are required in order to implement an endorsed Layout Plan it may request that the Minister for Planning recommend that the Minister for Lands modify land tenure in accordance with that Layout Plan.

Attachment 1—Definitions

Aboriginal community	An entity that accords with the definition of Aboriginal community as prescribed in the <i>Aboriginal Communities Act 1979</i> .
Aboriginal settlement	A discrete place that is not contiguous with a gazetted town, is inhabited or intended to be inhabited wholly or principally by persons of Aboriginal descent, as defined under the <i>Aboriginal Affairs Planning Authority Act 1972</i> , and which has no less than 5 domestic dwellings and/or is supported by essential services that are provided by one or more state agency(s).
Infrastructure	Any non-housing related assets that are or will be fixed to the land.
Layout plan	A land-use plan for Aboriginal settlement.
Essential services	Reticulated electricity and drinking water supply.
Drinking water source protection plan	A plan that prescribes objectives and methods for the protection of a drinking water source that supplies drinking water to an Aboriginal settlement, generally in accordance with State Planning policy No. 2.7—Public Drinking Water Source Policy.
Remote regions	Whole or part of those regions of Western Australia (as per schedule 4 of the <i>Planning and Development Act 2005</i>) described below: <ul style="list-style-type: none"> • Gascoyne • Goldfields-Esperance • Kimberley • Pilbara • Mid West (Cue, Meekatharra, Mount Magnet, Murchison, Sandstone, Wiluna and Yalgoo local governments only)
Remote road house	A facility that provides essential goods and services such as fuel, food and accommodation to the general public, is on a reliable road network and is distant from the nearest regional centre.
Resident community	An incorporated community council/s that has authority regarding housing and infrastructure within a settlement under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> or similar legislation.
Traditional owners	The representative group of either registered native title claimants or native title holders under the <i>Native Title Act 1993</i> .