

Noongar Customary Activities within Public Drinking Water Source Areas

(PDWSA) in the South West



Changes to the Water By-laws

Changes have been made to By-laws that enable Noongar people to legally carry out certain land-based Aboriginal customary activities within Public Drinking Water Source Areas (PDWSAs) in the South West of Western Australia. This is an agreed component of the South West Native Title Settlement (Settlement). As of 8 June 2016, those changes have now become law.

Noongar and Aboriginal Customary Activities

The amended By-laws enable Noongar people to undertake the activities that were agreed to as part of the Settlement including:

- Access to registered/lodged Aboriginal sites (under the *Aboriginal Heritage Act 1972*) within reservoir protection zones¹ or high water marks² on Crown land for Aboriginal customary purposes³.
- The Minister for Water, after consultation with the respective Noongar agreement groups, to designate camping sites for Noongar people within PDWSAs on Crown land outside reservoir protection wellhead protection zones and high water marks.
- The lighting of fires for Aboriginal customary purposes³ on a registered Aboriginal site in a reservoir protection zone or high water mark, and within surface water metropolitan PDWSAs (refer map) in the outer catchment, subject to restrictions under the *Bush Fires Act 1954*.
- Gathering invertebrates, eggs and flora subject to conditions for Aboriginal customary purposes³ at registered Aboriginal sites on Crown land within reservoir protection zones and high water marks; and within PDWSAs on Crown land outside of reservoir protection zones.

1. A buffer measured from the high water mark of a drinking water reservoir, inclusive of the reservoir usually 2km. This is referred to as a prohibited zone under the *Metropolitan Water Supply, Sewerage, and Drainage Act By laws 1981*.
2. High water mark is the highest level water can rise to in the reservoir before being released through a spillway or over the reservoir wall under the Water Services Regulations 40A only.

3. An aboriginal customary activity means:
 - a) preparing or consuming food customarily eaten by Aboriginal persons; or by Aboriginal persons; or
 - b) preparing or using medicine customarily used
 - c) engaging in artistic, ceremonial or other cultural activities customarily engaged in by Aboriginal person.

Metropolitan Water Supply, Sewerage, and Drainage By-laws 1981 (MWSSD By-laws) and Water Services regulations 2013.

HOW THEY WORK

Under the MWSSD By-laws, PDWSAs are divided into three categories:

- **Reservoir Protection Zones RPZs:** are the areas within two kilometres from the high water mark of dams and reservoirs. RPZs include the reservoir but do not include the land downstream of the dam or reservoir.
- **High Water Mark (HWMs):** the highest level water can rise to in the reservoir before being released through the spillway or over the reservoir wall.
- **Outer Catchment Areas:** are all the other Crown land areas within a PDWSA outside of the RPZ.

What Noongar people can do within RPZs in the Settlement area

Noongar people can enter into RPZs or HWMs to travel directly to or from registered Aboriginal sites. The general public do not usually have access to these zones unless on a public road.

At registered Aboriginal sites, within RPZs and HWMs, Noongar people can undertake activities for an Aboriginal customary purpose such as:

- undertake ceremonial artistic and cultural activities;
- collect plants for bush tucker and medicine;
- collect invertebrate and eggs using hand held tools only and without contact with the water body; and
- light fires (on crown land subject to the *Bush Fires Act 1954*).

What Noongar people can do within MWSSD outer catchment areas

Noongar people can undertake the following land-based customary activities:

- access all areas of Crown land within the outer catchment except for Water Corporation assets;
- visit registered Aboriginal sites;
- collect plants for bush tucker and medicine;
- undertake Noongar cultural, artistic and ceremonial activities;
- collect invertebrate and eggs using hand held tools only and without any contact with the waterbody; and
- light fires on crown land (subject to the *Bush Fires Act 1954*).

How do Noongar people access registered Aboriginal sites when there are locked gates?

If Noongar people wish to visit a registered Aboriginal site, or undertake customary activities within PDWSAs, and the access track has a locked gate, then they should contact the local Water Corporation depot to arrange access. See over page for contact details.

It is intended that access protocols will be developed with the six respective Noongar Regional Corporations established under the Settlement to facilitate Noongar access.

Country Areas Water Supply By-laws 1957 (CAWS By-laws):

HOW THEY WORK

What Noongar people can do in CAWS catchment areas

Under these By-laws Noongar people can:

- cut down trees and shrubs for a Noongar customary purpose but not for a commercial purpose;
- visit registered Aboriginal sites;
- undertake ceremonial, artistic and cultural activities;
- collect plants for bush tucker and medicine;
- collect invertebrate and eggs using hand held tools only and without contact with the waterbody; and
- light fires (subject to the *Bush Fires Act 1954* and lawful authority e.g. ILUA).

What Noongar people cannot do within all PDWSAs

To protect water quality, the MWSSD By-Laws and the CAWS By-laws do not permit Noongar people to:

- enter into an RPZ or HWM unless travelling directly to or from a registered Aboriginal site RPZ relevant to MWSSD catchments only, HWM relevant to all catchments.
- hunt, fish or catch marron.
- enter or swim in dams or streams.
- use firearms, spears or boomerangs.
- bring dogs into PDWSAs.
- camp at undesignated camp sites.
- use unlicensed vehicles including motorbikes and quad bikes.
- drive a vehicle off existing tracks.

The amended By-laws do not enable Noongar people to enter the water or to fish or marron, as contact with any water used to supply drinking water can affect the safety and quality of drinking water. Hunting animals such as kangaroos is not permitted.

What Noongar Customary Activities can Noongar people undertake within a PDWSA that is located within a National Park or State Forest?

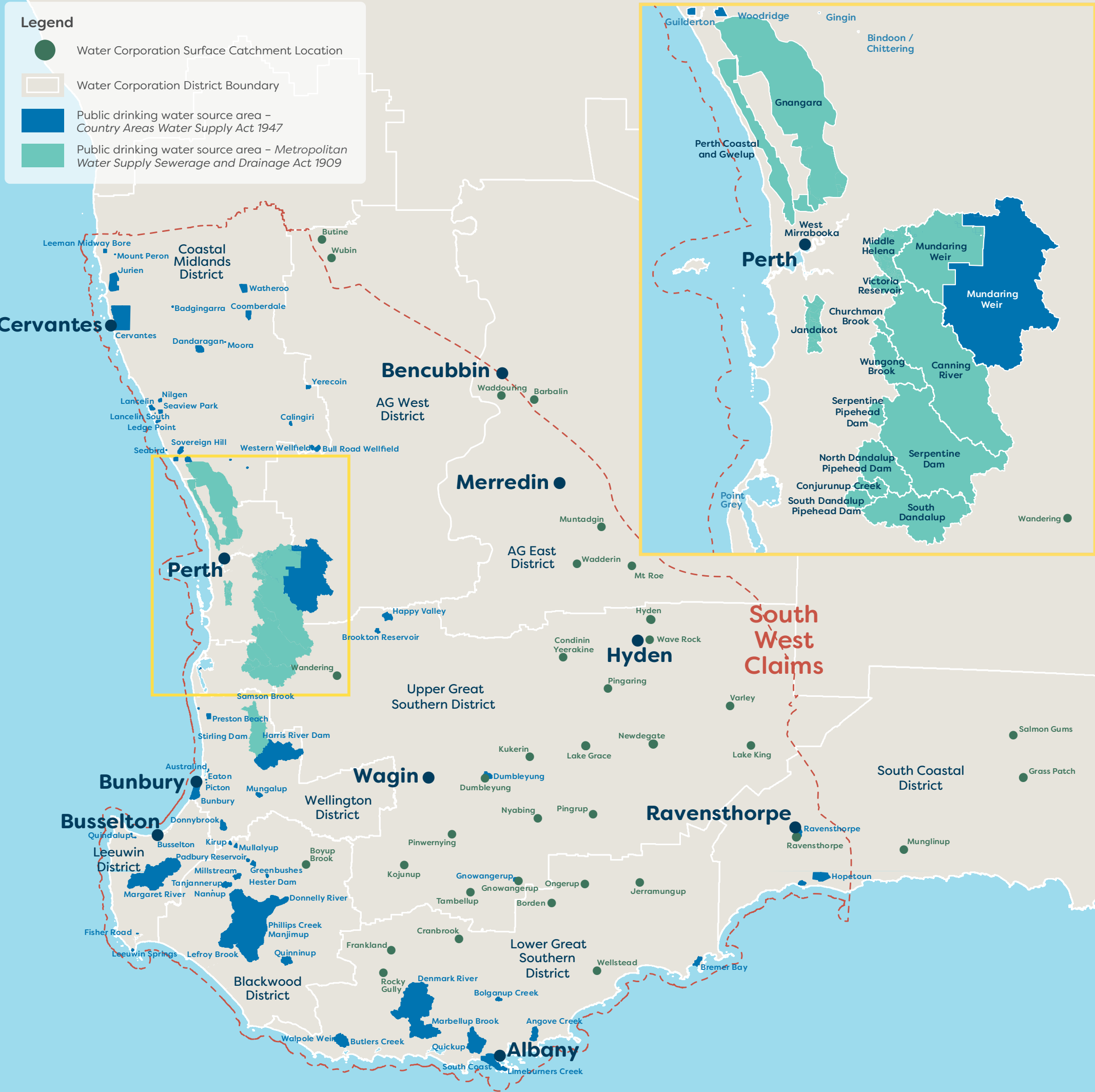
Many PDWSAs are located within National Parks or State Forests managed by the Department of Biodiversity Conservation and Attractions (DBCA) under the *Conservation and Land Management Act 1984* (CALM Act). Under the CALM Act, Aboriginal people can hunt, fish and camp within certain areas of National Parks and State Forests (for more information contact Department of Biodiversity Conservation and Attractions (DBCA) on (08) 9219 9000).

Where land that is both a PDWSA and a National Park or State Forest, the

MWSSD and CAWS By-laws apply, and therefore the use of firearms, hunting, fishing, swimming, marroning and camping (at non designated sites) are not allowed.

If you have any doubt about whether you are allowed to use firearms, hunt, fish, swim, marron or camp at a certain place, please contact your local Water Corporation or DBCA office who will advise you about what activities can be undertaken in particular places. Contact details for Water Corporation depots and DBCA offices are over page.

Map of Public Drinking Water Source Areas in the South West



Contact Details

Whadjuk Area

Water Corporation Metropolitan Region
 Kelmscott Depot
 Catchment Operations Manager
 (08) 9495 8821 • 0428 102 485

Gnaala Karla Booja Area

Water Corporation Metropolitan and South West Region
 Kelmscott Depot
 Catchment Operations Manager
 (08) 9495 8821 • 0428 102 485
 Wellington District (Collie Depot)
 Lead Ranger
 0488 912 162
 South West Regional Office (Bunbury)
 Technical Advisor Water Quality
 (08) 9791 0408 • 0436 015 235
 Blackwood District (Bridgetown Office)
 Lead Ranger
 0409 880 759

South West Boojarah

Water Corporation South West Region
 Leeuwin District (Bridgetown Office)
 Lead Ranger • 0409 880 759
 Blackwood District (Manjimup Depot)
 Team Leader • 0409 880 759

Wagyl Kaip Area

Water Corporation Great Southern Region
 Albany Depot
 Lead Ranger
 (08) 9842 4314 • 0429 109 684

Yued Area

Water Corporation Mid-West Region
 Coastal Midlands District (Geraldton Office)
 Lead Ranger
 (08) 9923 4932 • 0499 716 784

Ballardong Area

Water Corporation Great Southern & Agricultural Regions
 Albany Depot
 Lead Ranger
 (08) 9842 4314 • 0429 109 684

Ag West District

Northam Depot
 Operations Manager
 (08) 9690 1853

Ag East District

Merredin Depot
 Operations Manager
 (08) 9041 0206

Department of Biodiversity Conservation and Attractions (DBCA)

(08) 9219 9000

Department of Aboriginal Affairs

For information regarding Aboriginal heritage sites:
 Department of Aboriginal Affairs
 Director, South West Settlement
 (08) 6551 8070

Respect and Relationships

Water Corporation and the Department of Water and Environmental Regulation recognise that Noongar people are the traditional owners of the South West of the State, and continue to have responsibilities under Noongar law and custom to look after Aboriginal sites, and to practice cultural business, including within PDWSAs.

Water Corporation and the Department of Water and Environmental Regulation will partner with the Noongar people to implement these By-laws effectively. At the local level, the Water Corporation will work with the Noongar people to facilitate Aboriginal customary activities on country while protecting the quality of the water.

Protecting Our Drinking Water

Water Corporation and the Department of Water and Environmental Regulation have a legal responsibility to provide clean and safe drinking water to the community. Activities within PDWSAs are managed to protect water quality and public health, by ensuring that waterways and reservoirs are not contaminated or polluted.

Water-based activities, including customary activities such as fishing and marroning are not supported in PDWSAs. If people come into direct contact with water that is used for drinking water supply, there is a risk of pathogen contamination, which could be detrimental to the health of those consuming the water. This restriction is the same for all PDWSAs in WA, to protect public health.

About the artist

Delvene McLaughlin is a Wardandi, Whadjuk Bibbulmun woman who created the artwork featured within this brochure. Delvene developed her artwork based on Boodjar (land/country) and Kapitj (rivers). The Manatj Mart (sulphur crested cockatoo) and Wardong Mart (Australian Raven) represent Noongar people's connection to Boodjar. The Balga bush has many cultural uses for Noongar people and is a very important. The travel lines depicted in the brochure represent the people of the different Noongar Regional Corporations who can now travel freely across their Boodjar to visit and care for significant Noongar sites associated with Kep (water) shown as circles or resting places.

