

SUBMISSION TO THE DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION: ISSUES RELATING TO NATIVE VEGETATION MANAGEMENT IN WESTERN AUSTRALIA

10 FEBRUARY 2020

This submission is made on behalf of the Conservation Council of Western Australia and the Wilderness Society WA.

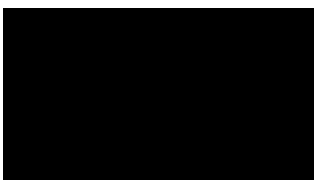
We welcome the opportunity to provide comment about native vegetation management in Western Australia and commend the government in releasing the issues paper in November 2019 to begin discussions to bring about improvements.

Our submission covers some of the major issues that need to be addressed, and we offer suggestions on how to improve the current management of native management. Given the breadth of this topic, there are a number of other matters that have not been covered, and we would welcome further engagement to highlight those.

It is noted in the Native Vegetation in Western Australia issues paper prepared by the Department of Water and Environmental Regulation that public consultation for the proposed draft native vegetation policy will be four weeks in April 2020. Given that the proposed policy will potentially have long term consequences for Western Australia, we urge a longer consultation period to provide for adequate consideration by all stakeholders.

It is acknowledged that the State government is proposing to release a new climate change policy, and this should have a bearing on future native vegetation management given the role that native vegetation and ecosystems have in storing and sequestering carbon and the need for adaptation and resilience planning to support the ongoing sustainability of these systems.

It is also acknowledged that the government recently sought public comments on proposed changes to the *Environmental Protection Act 1986* (WA) EP Act), which closed on 28 January 2020. This submission raises some issues that relate to this statute. Hence, recommendations under this submission equally apply as suggestions for amendments to the EP Act.



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Executive Summary

Healthy native vegetation is fundamental for the survival of all Western Australians and a crucial component of our unique biodiversity. However, much of it has been lost and is in decline. Continued loss of habitats through clearing along with other compounding threatening processes, such as loss of connectivity between intact vegetation, altered fire regimes, climate change and impacts from introduced species and pathogens, will exacerbate this situation. On current projections, Western Australia will continue to lose further species and ecosystems. The full impacts will not be known for several decades and a substantial extinction debt and ecological cost will be passed onto future generations.

The rate and scale of native vegetation clearing remains one of the most serious issues. Western Australia continues to experience ‘death by a thousand cuts’ and loss of significant biodiversity while basic information to understand the overall scale, extent and pattern of clearing is absent. In effect, the government is ‘flying blind’ while sanctioning clearing.

The overall impact, or effectiveness, of legislation and programs is unknown after 15 years since the introduction of clearing regulations in 2004. There are no stated purpose or goals on the use of clearing regulations under the EP Act, and a lack of contextual information to inform decision making, an overarching policy framework and provisions for State of Environment reporting.

Substantial reforms of the *Environmental Protection Act 1986* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* are suggested to achieve proactive native vegetation protection and management, beyond regulating clearing that essentially focuses on vegetation at risk, to prevent vegetation from becoming at risk. This will require either substantial new additions to Part V or a standalone part to EP Act, or new legislation aimed specifically at vegetation management within which clearing is regulated but also broader powers and functions for protection. Clearing regulations should be used to achieve an overall environmental net gain and to mitigate greenhouse gas emissions.

Reforms to the *Biodiversity Conservation Act 2016* and *Conservation Land Management Act 1984* are also required to modernise these statutes and bring about better protection and management. Several suggested amendments are outlined.

Since 2007, successive governments have abrogated a duty to communicate and provide timely reports and information to the public on the overall condition of the environment, and biodiversity, and the emerging trends facing Western Australia. Five-yearly State of Environment reporting as well as five-yearly comprehensive evaluation of biodiversity are required.

While there has been steps towards improving native vegetation with new initiatives, much is ad hoc and not at a scale that will not adequately deal with the extensive mounting problems. At the same time, some government management programmes aimed at native vegetation and biodiversity conservation have been abolished or rundown, especially in the past five years. For many broadscale environmental issues,

management capacity that has been built over the past three decades has been depleted.

The pace and scale of investment does not match the extent or seriousness of the problems. A considerable order of magnitude of sustained investment that transcends government terms is required, and a paradigm shift in management response to contemporary practices and legislative frameworks. There are systemic flaws in design and deliver of current government policies and programs to address major problems.

The publicly-managed terrestrial and marine conservation system, together with complementary landscape scale initiatives and incentives will need to be considerably expanded and underpinned by a substantial government investment and ongoing support.

This submission recommends three broad areas (across 13 sections) of major reforms to address the continuing decline in extent and condition of native vegetation:

- existing legislation, principally the *Environmental Protection Act 1986*, *Biodiversity Conservation Act 2016* and the *Conservation and Land Management Act 1984*;
- improved management of land and biodiversity conservation, especially on public lands; and
- greater governance, strategic direction and coordination by government.

Summary of recommendations

A State native vegetation policy

	Recommendations
	<p>The purpose and intent of clearing regulations to achieve an overall environmental net gain must be clearly stated in the EP Act.</p> <p>Provisions for a State native vegetation policy must be made mandatory in the Environmental Protection Act or a separate native vegetation statute and include at the very minimum five-yearly reporting requirements.</p>
	<p>A State native vegetation policy include the following elements:</p> <ul style="list-style-type: none"> • The value of native vegetation; • Vision statement indicating a need to build ecosystem resilience, and reach full productive capacity within a specified time horizon, i.e. by 2050; • Goals to maintain and restore the condition and ecological functioning of native vegetation; and to increase the extent and functional connectivity of native vegetation leading to an overall net environmental gain. • Desired outcomes and management principles. • Strategies: <ul style="list-style-type: none"> ○ build and transfer knowledge for better decision making and conservation planning; ○ improve planning for biodiversity and native vegetation; ○ identity and prioritise high value areas for protection;

	<ul style="list-style-type: none"> ○ maintain and build capacity in management and science; ○ educate about native vegetation values, and improve compliance and enforcement; and ○ support drivers of change and assist land managers to improve management. <ul style="list-style-type: none"> • Measurable performance indicators and periodic five-year outcome reporting about whether management is effectiveness in meeting goals, and trends in native vegetation extent and health.
	An implementation plan(s) and effective coordination will be needed.
	Greater guidance by ministers to their relevant agencies and across portfolios and sectors, and better leadership from senior government officials is required. This cannot be overstated, and a failure to put in place effective, long-term coordination mechanisms and accountability arrangements will lead to a failure in policy implementation.
	Substantial increase in government investment and improved partnerships with other governments and other stakeholders is critical.

Better legislation

	<p>That a purpose-specific native vegetation legislation is established to conserve, protect and enhance native vegetation by:</p> <ul style="list-style-type: none"> • promoting the retention and enhancement of native vegetation in quality and extent; • promoting re-establishment of native vegetation; • providing incentives and assistance; • promoting co-operative approaches to the protection and management of native vegetation involving governments, landholders and the community; • limiting clearing of native vegetation and ensuring clearing does not cause land or ecological degradation; • requiring sound reasons, demonstrated high social and/or economic importance and no viable alternative to the need, size/scale or location of a proposal prior to approving clearing; • reducing greenhouse gas emissions; • encouraging management and science; • ensuring monitoring and reporting on the quality and extent of native vegetation every five-years; and • ensuring that the public has access to relevant and meaningful information about native vegetation.
	That legislation establishes a native vegetation council to advise the minister on native vegetation matters, including: status and condition; statewide policy; supporting management and re-establishment programs; research requirements; effectiveness of legislation and regulations in meeting statutory intent and objectives.
	That native vegetation legislation promotes achieving an overall environmental net gain - in extent and condition of native vegetation - and in mitigating greenhouse gas emissions.

	That native vegetation legislation establishes a native vegetation fund to conserve, improve, establish and regenerate vegetation.
	That a strategic assessment of clearing in the East and West Kimberley occur to provide context, identify impacts and clearing thresholds. This must be underpinned by targeted regional biodiversity surveys and assessments.
Use EP Act (Parts IV and V) to achieve an overall net environmental gain from clearing	
	Recommendations
	That the government require 'offsets' for all authorised clearing under permit (area and purpose), and clearing is only allowed provided there is a net gain for biodiversity and in mitigating greenhouse gases.
	Where a residual environmental impact is found, a greater level of offset should be applied to achieve a higher level of contribution in meeting an overall net gain.
	That offsets apply to all clearing authorised under Part V of the EP Act, via area and purpose permits, and Part IV of the EP Act where clearing is allowed including under local government planning schemes.
	Establish an offset credit scheme that calculates the cost and scale of impacts and offers a variety of offset improvement and protection mechanisms, including credit trading and banking.
	Establish an incentives package for greater retention and management of high value native vegetation and ecosystems to avoid loss of biodiversity values.
	Establish supporting complementary native vegetation management and incentives package outside the regulatory clearing framework that targets protection and conservation of vegetation in high risk areas.
Recognise cumulative impacts	
	That an additional principle is mandated under the Act to cover cumulative impacts, and that assessment of clearing applications must consider this additional principle in coming to a decision.
	Wording of Schedule 5 – clearing principles – changed to “Native vegetation must not be cleared if...”.
	<p>Alternatively change the clearing principles to:</p> <ul style="list-style-type: none"> • Native vegetation should only be cleared if — <ul style="list-style-type: none"> ○ (a) it comprises a low level of biological diversity; or ○ (b) it does not comprise the whole or a part of, and is not necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia; or ○ (c) it does not include, and is not necessary for the continued existence of, rare flora; or

	<ul style="list-style-type: none"> ○ (d) it does not comprise the whole or a part of, and is not necessary for the maintenance of, a threatened ecological community; or ○ (e) it is not a remnant of native vegetation in an area that has been extensively cleared; or (f) it is not growing in, and is not in association with, an environment associated with a watercourse or wetland; or ○ (g) the clearing of the vegetation is not likely to cause appreciable land degradation; or ○ (h) the clearing of the vegetation is not likely to have an impact on the environmental values of any adjacent or nearby conservation area; or ○ (i) the clearing of the vegetation is not likely to cause deterioration in the quality of surface or underground water; or ○ (j) the clearing of the vegetation is not likely to cause, or exacerbate, the incidence or intensity of flooding.
Exemptions from clearing assessment and permits	
	Recommendation
	<p>That the clearing exemptions are reviewed with the aim to:</p> <ul style="list-style-type: none"> • reduce the overall number of exemptions; • eliminate exemptions in highly fragmented landscapes and ESAs and only allow clearing under exemption circumstances, where a set of legally binding additional clearing criteria apply after assessment. Where clearing is undertaken in these landscapes, there must be a comparable offset that far outweighs any loss by a factor of at least 10:1; • make exemptions clearer under the clearing regulations through a rewrite; • reduce the increase in combined clearing area from five hectares per financial year to one hectare; • reduce the time to maintain previously lawfully cleared areas without requiring a permit from 20 to 10 years.
Lack of targets and thresholds	
	Recommendation
	Clearing thresholds for all broad vegetation types need to be developed where <u>retention levels</u> range from 50 to 100 per cent. This would better adopt the precautionary principle in coming to a decision.
Establishment of an independent body to consider appeals	
	Recommendation
	That appeals under the EP Act are considered by a specialist tribunal or court.
Revoke delegated authority to the Department of Mines,	

Industry Regulation and Safety	
	Recommendation
	It is strongly recommended that the DMIRS delegation is revoked.
Definitions required for variance with the clearing regulations	
	Recommendations
	That the key terms “maybe at variance with”, “is not at variance with”, “is likely to be at variance”, or “is seriously at variance with” are defined in the clearing regulations.
	All seriously at variance with proposals must be formally assessed under Part IV of the EP Act.
Purpose clearing permits and assessment of clearing	
	Recommendations
	All purpose permits must report on actual clearing and detail ‘avoidance’ measures;
	All purpose permits must record all decisions and make these public;
	DWER must aggregate reporting on all purpose permits, indicating the total area cleared and total number of resultant offsets
	Any at variance and seriously at variance proposals under a purpose permit must be assessed under part IV of the EP Act by DWER.
	Any residual impacts found must be assessed by DWER.
Biodiversity offsets under the EP Act	
	Recommendations
	Greater guidance is required in the environmental offset policy and guidelines for securing offsets.
	An offset credit scheme is created to establish an offset or buy a vegetation credit with registered third parties, brokers and assessors.
	Offsets must be weighted towards protecting and managing remaining quality vegetation in perpetuity, especially in landscapes where little vegetation remains.
	Land acquisition offsets must include ongoing management and reporting on management outcomes and the date that the area was gazetted.
	The period of offset management and reporting must be increased to at least 10 years; with large scale offsets requiring ongoing management and reporting for up to 20 years after the commencement of a clearing permit.

	There must be greater clarity in policy documents on what 'like for like' and net benefit means, and criteria to achieve these ends.
	As recommended above, the delegation to allow DMIPS to assess and set permit conditions/offsets should be revoked and all assessments for clearing under Part V of the EP Act must come under a single regulatory authority.
	Greater guidance is required in design, implementation and reporting of biodiversity offsets, and greater transparency in decision making about offsets. It is strongly recommended that a State offset planning tool is developed that assists proponents and regulators in developing packages, for example expanding the Commonwealth offsets calculator.
	Funds should be transferred to the State to support future management activities including reporting and evaluation.
Limited details and lack of reporting on offsets	
	Recommendation
	That all offsets – past or proposed – must have regular outcome reporting requirements and milestones for outputs.
Greater response in updating offset guidelines	
	Recommendation
	Updates to the offset policy and guidelines must be made mandatory every five years.
Environmentally sensitive areas	
	Recommendations
	That environmentally sensitive areas are expanded to include areas of high biodiversity richness – hotspots – and high value conservation areas. This includes areas identified under the Swan Bioplan as Peel Regionally Significant Natural Areas, Bunbury Regional Scheme Conservation Areas, road and rail reserves in the south west agricultural zone, and hotspots high in species endemism, Wheatbelt and Swan Coastal Plain bioregions.
Reduce impacts in environmentally sensitive areas	
	Recommendations
	That the EP Act and clearing regulations (and guidelines) must be changed so that there is a requisite for any proposed clearing within an ESA, or affecting an ESA, to be assessed, irrespective if an exemption applies.
	That clearing is only authorised in ESAs for a narrow range of emergencies, according to a higher level of assessment criteria and that

	all proposals, irrespective if seeking approval or exempt are assessed by DWER and the EPA.
	All clearing in an ESA must have an environmental offset secured, including for exemptions, before any clearing commences.
	Legislation must propose assessment thresholds for ESAs.
<i>Need for ESA statutory management plans</i>	
	Recommendations
	All listed environmentally sensitive areas require a management or recovery plan.
	All new threatened species and ecological communities must have recovery plans under the <i>Biodiversity Conservation Act 2016</i> (WA) within one year of listing.
	Conservation advice is provided upon listing of threatened species and ecological communities to guide immediate recovery actions and there are to be published.
	All existing threatened species and ecological communities without a current recovery plan to have plans by 2025.
<i>Lack of legal basis for State of Environment reporting</i>	
	Recommendations
	Provisions under the EP Act that imposes a function and powers for the EPA to produce five-yearly State of Environment reporting.
	Provisions in the EP Act to specify what constitutes a SoE report and what it must cover.
	Provisions that the Minister (government) must respond via a public report to a SoE report; and produce implementation plans within a year following publication of a SoE report and that these are binding on the State.
<i>Environmental Protection Policies</i>	
	Recommendation
	That EPPs under the EP Act are reinstated for south west agricultural zone wetlands, Swan Coastal Plain wetlands, and new policies for Banksia woodlands of the Swan Coastal Plain and Tuart forests and woodlands of the Swan Coastal Plain are written and gazetted.
<i>Biodiversity Conservation Act 2016 reforms</i>	
	Recommendations
	That the BC Act 2016 is reviewed as matter of urgency, with a view to modernising it.
	The following changes and additions to the BC Act 2016 are suggested:

	<ul style="list-style-type: none"> • make legislative objects explicit and specific with an overarching duty for the Minister and officials to promote and advance biodiversity conservation and that this is also binding on other legislation; • removal of discretionary powers of the minister and CEO so that they 'must' undertake certain actions; • mandate a framework to establish and periodically report on the trends in the state and condition of biodiversity, pressures and effectiveness of management interventions; • include provisions to establish a statewide biodiversity strategy with periodic five-year reviews; • include provisions to establish scientific advisory committees for listings and a committee to review of the Act, audit a State biodiversity conservation strategy and coordinate periodic five-year assessments and reporting on the state and condition of biodiversity; • provide greater access to public interests, including through third party appeals, and ensuring relevant information is publicly available; • increase scrutiny of decisions and processes by the public and Parliament, including establishment of an independent advisory committee to assist the Minister and oversee technical functions; • adopt all IUCN categories and assessment guidelines and criteria for listing in full; • include species and communities that are conservation dependent and data deficient, i.e. 'priority'; • undertake three-year periodic reviews of all listed species and ecological communities to ensure accuracy and that lists are up to date; • include provisions for timelines to develop plans – management and recovery plans; • include protection provisions and recognition of special values such as significant wetlands and areas/landscapes of biodiversity richness; • include provisions for abatement plans for key threatening processes; • improve definition of critical habitat to include habitat essential for the conservation of a viable population of species or community, whether or not that habitat is occupied or has special management or protection measures; • ensure the provision of publicly available conservation advice on the listing/de-listing of a species/ecological community, which at a minimum contains the reasons for listing/de-listing and functions as an immediate interim
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	<p>recovery plan, guiding actions and priorities while a final recovery plan is being developed;</p> <ul style="list-style-type: none"> • ensure adequate time-lines for listing/de-listing proposals, programme reviews and public input there to are provided; and • include provisions that will ensure conservation of sandalwood, including: (i) establishing an adequate ecological evaluation programme to determine state and sustainable harvest rates; (ii) making of a management plan, obtaining independent scientific expertise and public consultation before setting harvest quotas and outlining suitable criteria for decision making; (iii) public notification of harvest quotas that provides justification and ability of third part appeal; and (iv) periodic reviews that are inclusive of public and scientific involvement and scrutiny. <p>As expressed above, the removal of sandalwood in the wild is not sustainable. Hence, it is strongly recommended that all clearing/removal of this species is made illegal.</p>
<i>Listing of key threatening processes under the Biodiversity Conservation Act 2016</i>	
	Recommendation
	<p>The Minister for Environment list the following as key threatening processes under the BC Act, and prepare appropriate abatement plans or put in place effective management frameworks:</p> <ul style="list-style-type: none"> • native vegetation clearing; • anthropogenic climate change; • <i>Phytophthora</i> dieback; • Dryland salinity (secondary salinisation of lands and waters).
<i>The Conservation and Land Management Act</i>	
	Recommendations
	<p>That a review of the CALM Act is undertaken as a matter of urgency, and towards modernising it in line with national and international standards. This should include a review of Conservation and Parks Commission in 2020.</p>
	<p>The following changes and additions to the CALM Act are suggested:</p> <ul style="list-style-type: none"> • Provisions under the CALM Act are reinstated to allow greater independence of the Conservation and Parks Commission to undertake its function in regard to management planning, policy development and auditing. This includes providing finances and resourcing independent from DBCA. • Broad areas of expertise are reinstated for commission membership, and to prevent politicisation by inclusion of a set of eligibility criteria.

	<ul style="list-style-type: none"> • A State of the Parks reporting framework, with five yearly reports, to allow outcome-based evaluation of the conservation reserve system and in meeting biodiversity objectives as provided under the CALM Act. • Management intent and objectives, in line with the IUCN protected area guidelines, are clearly stated for all reservation categories under the CALM Act. • Statutory timelines for public consultation for area management plans must be at least three months, in line with marine reserve establishment timelines. • Upon reservation of new areas, management plans must come into effect within 1 Calendar year. • A duty and role for the minister in establishing the conservation reserve system must be clearly stated, and definitions for 'comprehensiveness', 'adequacy' and 'representativeness' must be prescribed in the Act, in line with the National Reserve System strategic plan. • Concurrence powers of the Ministers of Fisheries and Mines must be changed, whereby those ministers are <u>consulted</u> over marine reserve proposals rather than allowing them to veto whole/parts.
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Better information

<i>Accurate information on clearing</i>	
	Recommendation
	<p>That the EPA publishes an annual report card on clearing that:</p> <p>details the current situation about clearing – extent, condition, pattern; provides statistics on all approved clearing under Part V (area, number of permits, location at a subregional scale), including from purpose permits and under Part IV approved clearing; and details the progress in resolving relevant administrative and information issues.</p>
<i>Improvements to DWER's websites about clearing needed</i>	
	Recommendations
	<p>All information about clearing, and clearing decisions, environmental offsets should be available through a single portal; hence the two datasets of CPS and WA Environmental Offset Register need to be consolidated within a single website portal.</p>

	Details about environmental offsets need to be more prominent in the CPS database, and how these were derived.
<i>Better information on native vegetation types and their extent and status</i>	
	Recommendation
	<p>That the State invests in a statewide native vegetation mapping system that provides clearing targets and thresholds and a conservation status for each vegetation type, and native vegetation retention targets at 1:100,000.</p> <p>Retention categories within a vegetation type should range from 50 to 100 per cent. A complementary ground-truthing program needs to verify boundaries and overall condition of vegetation within polygons.</p>

A Bioregional approach

	Recommendations
	<p>Provisions for bioregional planning must be included under WA legislation, and a bioregional approach must include the following:</p> <ul style="list-style-type: none"> • Community involvement at all stages, together with commitment from local government authorities and the State Government; • State level coordination of bioregional planning processes, and integration of activities across different governments (national, State and local); • Investment in research to improve understanding of native vegetation and biodiversity values; • Scientific-based decision making and priority setting to achieve a net benefit in the extent and condition of native vegetation at a bioregional scale; • Incorporation of strategies and targets from bioregional planning into other planning and regulatory processes to achieve a net improvement of native vegetation extent and condition; • Setting of targets and thresholds for native vegetation retention and condition; • Setting targets for formal protection of biodiversity; and • Ongoing evaluation and appraisal that measures progress, and periodic public reporting.
	Bioregional planning needs complemented with State level planning that amongst several matters must set targets and thresholds for clearing, and targets for biodiversity protection.

Collapse of state-funded landscape and conservation initiatives and inadequate whole of state coordination

	Recommendations
	There needs to be greater oversight by government of State agency programs, and a greater level of accountability applied.
	There needs to be a substantial reinvestment in staff and resources in landscape conservation initiatives to build capacity to previous levels, build contextual knowledge and new targeted investments to expand conservation initiatives.
	There needs to be completion of projects, such as the WA Biodiversity Audit II, to inform future management and science priorities and assist government in better decision making and targeting of investment.

Supporting policies and strategic plans

	Recommendations
	Complete a biodiversity conservation strategic plan for Western Australia that outlines goals, strategies, targets and a performance framework. This is critical to help support an effective native vegetation policy.
	That a State biodiversity conservation strategy is provided for under the provision of the <i>Biodiversity Conservation Act 2016</i> , including a requirement for five-yearly reviews, and implementation plans.
Update and replace the State policy and strategic plan for wetlands conservation	
	Recommendation
	A replacement State wetlands conservation policy and strategic plan is urgently needed and prescribed in regulations and made legally binding.

Wetland Conservation

Wetlands Coordinating Committee	
	Recommendation
	That the ministerially-appointed Wetlands Coordination Committee is chaired by a non-government independent person with wetland knowledge and expertise.
	Regular meetings are resumed to allow the committee to carry out its functions of coordinating all wetland conservation programs/activities, and that advice is regularly provided to the minister on key matters.
State wetlands buffer guidelines	
	Recommendation
	That State wetland buffer guidelines are finalised, established, and prescribed in regulations and made legally binding

Wetlands monitoring	
	Recommendation
	Re-establishment of the South West Wetlands Monitoring Program.
Geomorphic datasets	
	Recommendations
	Consolidate geomorphic datasets, and provide public access.
	Systematic (re)assessment of wetlands to determine management category, and make changes to increase protection status.
A report card on the condition of WA wetlands	
	Recommendation
	A five-yearly wetlands record card is established to determine state/condition and management effectiveness, under the auspices of the Wetlands Coordinating Committee.
Ramsar sites and nationally important wetlands	
	Recommendation
	That a desk-top assessment of wetlands is undertaken to provide information and a list of wetlands that would meet Ramsar nomination criteria.
	That the WA government nominate a further 10-15 wetlands to the Australian Government for listing on Directory of Important Wetlands in Australia.
	That further nominations of wetlands to the Directory of Important Wetlands in Australia are undertaken.
	Additional provisions are provided in the <i>Biodiversity Conservation Act 2016</i> to protect wetlands, including nationally-listed and Ramsar wetlands.
	Additional provisions are provided under the <i>Conservation and Land Management Act 1984</i> for the management of wetlands, particularly Ramsar sites.

The Formal Conservation Reserve System

Management of the conservation reserve system	
	Recommendation
	That five-year outcome-based assessments ("State of the Parks reporting") for the DBCA-managed terrestrial estate are mandated, and resultant reports align with the IUCN protected area management

	<p>effectiveness framework similar to the state of the parks report cards published by other Australian jurisdictions.</p> <p>This would help provide information to determine where investment is best placed, whether priorities are being implemented, improve accountability and public confidence. Above all, it would demonstrate whether management is effective or otherwise.</p>
State conservation reserve system strategic plan	
	Recommendation
	<p>That the State develop a 10-year protected area strategic plan that identifies gaps, provides targets and timelines, and implement that plan to complement Plan for Our Parks.</p> <p>This should include all outstanding Bush Forever sites, and pastoral leases purchased for conservation.</p>
Plans for the conservation reserve system	
	Recommendation
	All CALM Act reserves must have an area plan within five years of reservation (gazetted), in which native vegetation management outcomes and activities to meet these goals are stated along with outcome-based performance indicators.
	The backlog of reserves needing plans must be considered a priority by government, and by 2025 all existing reserves must have area plans.
	Alternative management arrangements should be investigated to assist the State deliver native vegetation and biodiversity management outcomes from the formal conservation reserve system.
	Currently, the scale and complexity of the reserve system is clearly too much for one government agency. Additional management arrangements might include leasing or contracting third parties, such as private nature conservation organisations to manage reserves, or by entering into joint management arrangements – Aboriginal or non-Aboriginal - outside of where native title does not exist.

Pastoral lands and native vegetation systems

	Recommendations
	<p>That a pastoral lease restructuring and reforms are undertaken including:</p> <ul style="list-style-type: none"> • lease buy-back and destocking scheme. • major overhaul of the Pastoral Lands Board functions and membership. • incentives for native vegetation management (agreements, covenants, grants, education etc). • statutory requirement for accredited property-level management plans to be prepared for retention, protection and restoration of native vegetation.
	Establishment of a major Land Restoration Fund to encourage uptake of human-induced native revegetation and locally native biodiverse carbon sequestration to generate Australian Carbon Credit Units under the Emissions Reduction Fund (this should also be extended to public and private conservation reserves in the rangelands).

	Investment in new methodologies for the arid zone under the Emissions Reduction Fund, e.g. fire management, feral animal control.
	Re-establishment of pastoral lands vegetation condition monitoring, and periodic reporting.

Urban Conservation

	Recommendations
	Transfer all remaining Bush Forever site into the conservation reserve system or under nature conservation covenant to be managed in perpetuity.
	Restore funding for Urban Landcare.
	Invest in urban native vegetation education and support re-establishment of vegetation.
	Require and provide incentives for local government to complete biodiversity conservation plans that are binding under town planning schemes.
	Expand the regional parks system to include Mandurah, Bunbury and Geraldton.

Marine Environment

	Recommendations
	Produce a marine conservation reserve system strategic plan with targets and timelines to complete a fully representative, adequate and comprehensive system that protects biodiversity, and periodically report progress towards meeting these criteria every three years.
	Complete reservations to fill major priority gaps, including Dampier Archipelago, nearshore Pilbara waters, Exmouth Gulf, Houtman Abrolhos waters, waters east of Cape Leeuwen on the south coast.
	Develop an implementation plan for reservation of marine conservation reserves.
	Major priority areas that should be considered as marine reserve proposals not included in the Plan for our Parks are: <ul style="list-style-type: none"> • Dampier Archipelago; • Near shore Pilbara coastline; • Exmouth Gulf; • Houtman Abrolhos Archipelago; • Majority of waters east of Cape Leeuwen on the south coasting including waters off Fitzgerald National Park, Stokes Inlet and the Recherche Archipelago.
<i>Need for a new marine policy</i>	
	Recommendation
	Update and modernise the New Horizons policy to ensure it is contemporary standards for reserve design and management.
<i>Reserve boundaries and sanctuary zone network needed</i>	
	Recommendations
	Undertake an investigation into the configuration of marine reserves and effectiveness of sanctuary zones, with the aim of improving reserve boundaries and internal zoning to improve biodiversity protection.

	Complete outstanding reviews of marine management plans, including zoning schemes, such as Camden Sound.
	Adopt a policy of 30% protection of each habitat as no-take areas.
Plans for marine reserves	
	Recommendation
	Update and replace all out of date 10-year marine reserve management plans.
Lack of public reporting on outcome performance	
	Recommendation
	Make publicly available condition and performance assessment reports for (1) the overall marine conservation reserve system, and (2) for each marine reserve.

Incentives to protect and manage native vegetation

	Recommendations
	<p>That the government develop and implement a comprehensive incentives package, which presents a range of options including, but not limited to:</p> <ul style="list-style-type: none"> ○ Conservation levies – both at a State and local government level; ○ A major Land restoration fund aimed at carbon farming and broadscale restoration; ○ Local government incentives to undertake biodiversity conservation planning and conservation levies; ○ Biodiversity banking; ○ A stewardship program to financially reward and support landholders to undertake native vegetation management and ○ Development of accredited Property-level management plans for retention and protection of native vegetation.
	That the government develop and provide financial or other incentives to encourage private entities, including organisations and individuals to conserve/revegetate/restore biodiversity.
	That the government develop and provide financial or other means to compensate private entities for conserving high value native vegetation on their land that they might otherwise clear. This could include direct financial assistance, reduced rates or outright purchase.

Natural resource management governance

	Recommendations
	<p>That the government:</p> <ul style="list-style-type: none"> • (re)establish a standing council on natural resource management comprising relevant ministers to provide oversight, integration and direction; • (re)establish a supporting agency-community natural resource management council to provide coordination and strategic advice to government; and • The Roadside Conservation Committee is revamped, or replaced with another committee with the same functions and responsibilities, with staffed, adequately-funded, independently-chaired committee of road management agencies (including Main Roads WA and local governments) and community

	representatives to provide strategic advice and guidance to State and local governments and road management agencies.
	It is further recommended that the supporting council consists of both government agency and non-government members; and that it has a responsibility to inquire and report on any relevant matter with a view to bring about effective management and better targeting of resources.

INTRODUCTION

The scale and intensity of a broad range of threatening processes¹ – past and current - have had an adverse and profound effect on the overall condition of Western Australia's native vegetation. These have altered the composition, structure and ecological function of ecosystems, and pushed many beyond the point of ecological recovery and compromised sustainability. In some instances, species have become extinct and ecological community types totally destroyed. Western Australia has an unenviable record in this regard.

The consequences of initial impacts from destruction of habitat and compounding subsequent threatening processes can mean that the full effects may take many decades, even centuries, to become fully evident. It is expected that Western Australia will pass onto future generations a hefty extinction debt that will also continue to worsen under present levels of investment in native vegetation management.

All remaining native vegetation is considered important and needs to be actively managed to retain biodiversity values and improve resilience to cope with a rapidly changing climate and reduce the risk of other threats. Native vegetation plays a vital role in mitigating the impacts of climate change. In this regard, the existing legal and regulatory frameworks do not put enough emphasis on promoting biodiversity conservation, furthering protection and bringing about sound management. These will require major reforms as indicated in this submission.

Lack of current information about the significance of remaining native vegetation, management effectiveness of government programmes and failure to provide comprehensive and periodic scientific assessments, on both native vegetation and biodiversity, are ongoing concerns. Much data and information that is available is not provided in a readily useable form or at a meaningful scale for land managers and other decision makers, including government; i.e. it is not fit-for-purpose.

Over the past decade, there has been a dereliction of government to educate and inform the public about the complete picture of major environmental issues facing Western Australia. The last State of Environment report occurred in 2007, and a report on findings and recommendations from a comprehensive assessment of biodiversity undertaken between 2012 to 2015 never eventuated. This has stifled open debate and fostered lack of awareness. It has allowed a level of complacency and government inaction. Moreover, there is a trend to obfuscate the seriousness of declining biodiversity in the face of a rapidly changing climate and avoid investment at a scale that would make a difference.

While it is acknowledged that there are a number of existing and proposed initiatives aimed at improving native vegetation management – both statutory and non-statutory – at the same time, there has also been an incremental and surreptitious reduction in many natural resource management programmes. In recent years, resourcing for some important programmes, principally aimed at biodiversity conservation, have

¹ Particularly direct loss of habitat through clearing, and indirect and compounding processes of fragmentation (loss of connectivity between intact vegetation); secondary degrading habitat processes such as weed infestations, invasive species, salinity, altered fire regimes/prescribed burning, grazing, altered hydrology, soil erosion; and climate change.

been abolished by government agencies; while others have been rundown to the point of either dysfunction or negligible impact. Our submission highlights some of these and also points to several systemic problems in policy, program design and implementation.

This not only impedes achieving long term environmental outcomes, but it also deflates capacity that has taken decades to build. It gives the broader message to the community that government 'isn't in it' for the long haul and a reliable partner. Increasingly, there has been tenuous and erratic support shown to addressing widespread and complex environmental problems that can take multi-decades to centuries to address and resolve. Strategic approaches and coordination to address many major issues are absent.

The rate and scale of clearing and the overall decline in native vegetation condition remains one of the most serious and pressing issues confronting Western Australia. Therefore, it is encouraging that the Department of Water and Environmental Regulation's (DWER) issues paper acknowledges a few of these problems and recognises some failures in controlling native vegetation clearing after 15 years since regulations were introduced in 2004.

In general, however, the scope of the issues paper is limited, and much of the discussion focuses on need for better clearing regulations and information to support these. While extremely important, many other critical vegetation management matters have not been covered in any depth. This submission highlights some omitted issues, as well as matters identified by DWER, and suggests urgent reforms.

A paradigm shift is required from an outdated reactionary management mindset, dominated by piecemeal responses and uneven programme delivery, to a contemporary and holistic approach. At this stage, the government is relying on a 'strategy of hope' that things will fundamentally get better with incremental tweaks. It's akin to 'fiddling while Rome burns'. More often than not, this only results in delay, paralysis and inaction. Certainly, it won't fix the scale of the problems. The State is on a declining trajectory in terms of response, while the problems are exponentially rising. Government needs to get ahead of the scale and speed of native vegetation decline, and considerably step-up in promoting and actively furthering biodiversity conservation.

An unparalleled opportunity exists for this Western Australia government to lead in halting degradation, reversing decline and being proactive in achieving a net environmental gain. However, this will require ongoing commitment through successive governments and investment levels at a substantial order of magnitude higher than is currently being applied. Business as usual is not an option, nor is a slow response in bringing about major reforms.

1. A STATE NATIVE VEGETATION POLICY

1.1 *Urgent need for an effective native vegetation policy that sets a goal for a net environmental gain and is applied to all relevant legislation and programmes*

DWER's issues paper on native vegetation indicates that the intent of a State native vegetation policy is to promote consistencies and transparency in the objectives (which is noted are currently absent in the current EP Act and clearing regulations) relating to native vegetation clearing across all government processes. However, a State policy needs to go much further than this and set a framework for better overall native vegetation management in Western Australia; where clearing is dealt within.

An overarching State native vegetation policy, or framework, that outlines desired outcomes for native vegetation and provisions for better overall management is welcomed and generally supported. A State policy, its intent and what it needs to broadly comprise, must be made mandatory and legally binding, such as found in Queensland's *Vegetation Management Act 1999*.² Provisions must specify terms for review and reporting.

A State policy must apply to all other relevant legislation and administrative process, such as State and local government planning, extractive industries and administration of public lands.

A WA native vegetation policy must detail desired outcomes for vegetation management and proposed actions to achieve these outcomes together with an accounting system that periodically reports on trends in condition, extent and whether management and regulations are having a positive impact. It will require an implementation plan.

The policy's vision should be couched in terms of achieving ecosystem resilience to decrease the risk of degradation and ensuring that full productive capacity is reached. Establishing a shared vision is a critical step in managing native vegetation effectively.

Towards this end, there are two suggested overarching primary goals that should guide the policy:

- (1) To maintain and restore the condition and ecological functioning of native vegetation; and
- (2) To increase the extent and functional connectivity of native vegetation.

Both goals should be viewed as leading to *an overall environmental net gain*, rather than a more neutral 'no net loss'.

The second suggested goal is particularly relevant to the highly fragmented landscapes of the south west of the State, but increasingly relevant to the rangelands

² <https://www.legislation.qld.gov.au/view/whole/html/inforce/current/act-1999-090>

where clearing and loss of habitat is occurring at an alarming rate (see below comments about increasing rates of clearing in the Pilbara and Kimberley).

In regard to comments on the listed 'objectives' in Box 6 on p.12 of the issues paper, the first is more of a generic vision statement but lacks anything about a desired ecological end point; while the third is a means to an end, or a regional strategy to achieve an unspecified goal. The second objective is generally supported; however, it is much better expressed and aligned to ecological parameters that provide a net gain in extent and quality of native vegetation, and biodiversity. It is noted that there is a lack of a vision statement and guiding management principles offered in the paper.

The policy will need a set of desired outcomes, such as biodiversity is maintained at all organisational levels, greenhouse gas emissions are reduced, vegetation networks and ecological corridors are conserved and expanded, vegetation is retained to prevent degradation; and also guiding management principles such as the precautionary principle.

1.2 *The State policy's strategies need to drive change*

To support our suggested goals, a number of strategies and measurable targets should be developed that clearly show how the above goals will be achieved within a given timeframe. Moreover, the policy framework needs to have a strong outcomes-based evaluate and public reporting element that is designed to measure progress on its effectiveness and improve accountability of various organisations to achieve a level of public confidence.

Strategies to achieve the overarching goals must be underpinned by significant government investment to;

- build and transfer knowledge for better decision making and conservation planning;
- improve planning for biodiversity;
- identify and secure high value areas for protection;
- maintain and build capacity in management;
- educate about native vegetation values, and improve compliance and enforcement; and
- support drivers of change and assist land managers to improve management.

1.3 *Impact of a policy needs to be measurable, and reported-on*

Of concern is the increasing trend in State government policies and strategies that lack specificity, meaningful measurable components, and lack of periodic reporting; and thus, avoid accountability and an ability to gauge whether regulatory and management regimes are making a positive difference.³ Such poorly presented instruments undermine public confidence in government, as well as set up failure for implementation. The proposed policy must avoid such temptations.

³ See for example the Western Australia Natural Resource Management Strategy 2015.

1.4 *Active government coordination is required*

Furthermore, there is a critical need that the implementation of the eventual State native vegetation policy is actively coordinated by government ministers. Currently, there is a lack of coordination and oversight across natural resource management matters. Moreover, there is a siloing through agencies of responses. This has led to incremental abolishment and unravelling of some important programmes (see further comments and recommendations in sections 5 and 13 about loss of programmes in recent years and need for improved governance). There is a lack of accountability regards implementation.

1.5 *Substantial increase in investment*

Another issue that cannot be overstated is the need for a substantial increase in government (re)investment to retain existing effective programmes and establish new ones.

Partnerships with the Australian Government, local governments and other stakeholders also need to be actively improved.

Recommendations

- The purpose and intent of clearing regulations to achieve an overall environmental net gain must be clearly stated in the EP Act.
- Provisions for a State native vegetation policy must be made mandatory in the Environmental Protection Act or a separate native vegetation statute and include at the very minimum five-yearly reporting requirements.

A State native vegetation policy include the following elements:

- The value of native vegetation;
- Vision statement indicating a need to build ecosystem resilience, and reach full productive capacity within a specified time horizon, i.e. by 2050;
- Goals to maintain and restore the condition and ecological functioning of native vegetation; and to increase the extent and functional connectivity of native vegetation leading to an overall net environmental gain.
- Desired outcomes and management principles.
- Strategies:
 - build and transfer knowledge for better decision making and conservation planning;
 - improve planning for biodiversity and native vegetation;
 - identify and prioritise high value areas for protection;
 - maintain and build capacity in management and science;
 - educate about native vegetation values, and improve compliance and enforcement; and
 - support drivers of change and assist land managers to improve management.

- Measurable performance indicators and periodic five-year outcome reporting about whether management is effectiveness in meeting goals, and trends in native vegetation extent and health.
- An implementation plan(s) and effective coordination will be needed.
- Greater guidance by ministers to their relevant agencies and across portfolios and sectors, and better leadership from senior government officials is required. This cannot be overstated, and a failure to put in place effective, long-term coordination mechanisms and accountability arrangements will lead to a failure in policy implementation.
- Substantial increase in government investment and improved partnerships with other governments and other stakeholders is critical.

2. BETTER LEGISLATION

2.1 *Major reforms are needed to improve native vegetation management and regulatory processes*

Substantial legislative reforms are required to achieve proactive native vegetation protection and management, beyond regulating clearing that essentially focuses on vegetation at risk but needs to also prevent other vegetation from becoming at risk. This will require either substantial amendments to Part V or a standalone part in the EP Act, or new legislation aimed specifically at vegetation management within which clearing is regulated but also broader powers are used to proactively protect and manage vegetation.

Major changes to the *Biodiversity Conservation Act 2016* (WA) (BC Act) also need to occur, given the direct relationship with the EP Act and significant deficiencies under this Act. These are broadly outlined under section 2.15.

The *Conservation and Land Management Act 1986* (CALM Act), which provides the legislative framework for managing the State's conservation reserves and State forests, requires reforms (section 2.17).

2.2 *Status of native vegetation clearing*

Eighteen million hectares of native vegetation has already been cleared in Western Australia. This equates to an area the size of England, Wales and Northern Ireland combined, or almost three times the size of Tasmania.

According to DWER's published clearing statistics, over the last 15 years, since the clearing regulations commenced in 2004, there has been in excess of 200,000 hectares approved for clearing under the EP Act, Part V clearing permits. Of these, 63.5 per cent (128,443 hectares) of the area has been cleared under DMIRS permits, while the remainder (73,805 ha) is via DWER permits.⁴

⁴ <https://dwer.wa.gov.au/clearingstatistics>

The total amount of actual clearing over this period is unknown (including approved through permits under Part V of the EP Act, clearing under Part IV of the EP Act, clearing by exemption, via local government planning schemes or unlawfully).

2.2.1 *Significant contribution to greenhouse gas emissions*

Decline or loss of native vegetation contributes to greenhouse gas emissions.

The Australian Government produces an annual national inventory report to the United Nations Framework Convention on Climate Change as part of Australia's reporting obligations under that Convention and the Kyoto Protocol (KP). It contains national greenhouse gas emission estimates.⁵ Within that report, emissions from deforestation are reported annually as "*forest converted to other land uses*" and direct emissions from forest clearing and post clearing uses.

Since 1990, emissions have been under-reported by a factor of five.

From 1990-2017 cumulative emissions from deforestation were 239,241 kt CO₂-e, rather than 42,745 kt as reported. This represent 12 per cent of WA's total greenhouse gas emissions over this period.

In 2017, emissions from deforestation activities were 3,606 kt (3.6Mt) and represents 4.1 per cent of WA's total emissions for that year, rather than 0.61 per cent (or 537) kt as reported) as reported. In comparison to other sectors in 2017, emissions from deforestation compares to industrial processes (5 per cent), agriculture (9 per cent), Waste (2 per cent) and Transport (15 per cent).

2.2.2 *Death by a thousand cuts*

Western Australia continues to experience 'death by a thousand cuts' and loss of significant biodiversity while basic information to understand the overall scale, extent and pattern of clearing is absent. In effect, the government is 'flying blind' while sanctioning clearing. The overall impact, or effectiveness, of clearing regulations is unknown after 15 years of the introduction of *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (clearing regulations). There is no stated purpose or goals on the use of clearing regulations under the EP Act, and a lack of contextual information to inform decision making.

Native vegetation clearing represents the most immediate threat to biodiversity in Western Australia, but it can also have long term negative consequences for landscape health and aquatic systems, such as wetlands and groundwater. The current clearing regulations allow clearing even when found to be at variance/seriously at variance with the stated clearing principles under the EP Act. Hence, regulations are being used to whittle away known values making them even more significant in terms of conservation and increasing risk of extinction.

⁵ <http://ageis.climatechange.gov.au/QueryAppendixTable.aspx>

2.2.3 *Lack of a strategic approach and basic information*

The WA Environment Protection Authority (EPA) in its last four annual reports, from 2015-16 to the most recent in 2018-19, has highlighted the need for a more strategic approach to regulating native vegetation clearing and the need for an accurate and contemporary understanding of the overall extent, quality and significance of remaining vegetation.⁶ Currently, there are no reliable means to determine how much native vegetation has been approved to clear or how much is cleared through exemptions from approvals in any given year. This basic information is required to make sound decisions and for better planning, management and protection.

The EPA has raised concerns about the cumulative impacts of clearing in the Perth-Peel, agricultural and Pilbara regions, and drawn attention to the increases in scale, rate and pattern of clearing.

The WA EPA in its 2015-16 Annual Report stated: “Records show that between 1997 and 2013 more than 2,300 square km [230,000 hectares] of Pilbara land was approved for clearing under the EP Act, with approximately 72 per cent of that area approved in the past five years.”⁷

2.2.4 *Accelerated clearing in the Kimberley*

Increasingly, there is also extensive clearing occurring, and planned to occur, for irrigated agriculture in the Kimberley region.

Large-scale clearing for cattle fodder and cropping is planned. WA has had the biggest recent increase in the cattle herd in Australia, with a 30% increase in the last two years.⁸ Kimberley landholders have already applied for permits to clear of about 11,000 hectares.

Broadscale clearing in the Kimberley has the potential for severe environmental impacts, including on groundwater. At the very least, rangelands clearing will have localised adverse impacts but likely to also have wider bioregional consequences.

Recommendation

- That a strategic assessment of clearing in the East and West Kimberley occur to provide context, identify impacts and clearing thresholds. This must be underpinned by targeted regional biodiversity surveys and assessments.

2.3 *General administrative problems with current regulation of clearing*

Some of the administrative issues include:

⁶ See <https://www.epa.wa.gov.au/epa-annual-reports> for links to various annual reports; and see also Native vegetation clearing report card on page 14 of in the EPA’s Annual Report 2015-16.

⁷ p.14 of Annual Report

http://www.epa.wa.gov.au/sites/default/files/Annual_reports/EPA%20Annual%20Report%202015-16-web.pdf

⁸ Note, Carlton Hill - owned by Chinese company KAI - is being managed by Consolidated Pastoral Company, which is also linked to significant clearing in Queensland.

- lack of objectives in the EP Act;
- lack of strategic assessments and approach;
- multiple-agencies are involved in approving clearing and environmental offsets, including the EPA, DWER and DMIRS;
- no reporting on the overall impact and extent of clearing;
- a large number of exemptions for clearing (there are 40 exemptions) under the EP Act, and these are not monitored or recorded;
- no single mechanism to record clearing (approved and exempted);
- many activities under law do not require clearing approval, including subdivision through WAPC, local government authorities and clearing for private property maintenance;
- lack of an independent body to make decisions on appeals;
- ineffective environmental offsets;
- poor compliance and enforcement; and
- inaccurate information, and lack of basic information and transfer of knowledge.

These issues are further discussed below.

2.4 Need for greater clarity on the overall intent and purpose of using clearing regulations in the EP Act

The EP Act (Part V, Division 2) and associated clearing regulations provide the framework that aims to control clearing and prevent illegal clearing. In addition, Part IV through environmental impact assessments can limit impacts and set conditions, and Part III provides for Environmental Protection Policies (EPPs). However, there is a lack of specific goals or objectives in regarding to using the clearing regulations.

The EP Act's 'object' – the underlying reason for the legislation - is broad and open to interpretation: "*The object of this Act is to protect the environment of the State, having regard to the following principles...*". It gives no direction on how the Act will achieve this intent, and in particular what the specific desired outcomes are.

In regard to regulating clearing, assessment of proposals is undertaken on site-by-site basis via issuing of permits to destroy; or through a wide range of exemptions where a clearing permit is not required. Clearing is often authorised even when at variance/seriously at variance with the clearing principles. There is an assumption that clearing can continue, and losses can either be compensated, absorbed or are environmentally negligible. The onus is on allowing clearing, rather than preventing clearing. The public is invariably paying for mostly private benefit to destroy irreplaceable values in some landscapes while at the same time increasing WA's greenhouse gas emissions.

Greater clarity on the overall intent of the legislation is required in regard to clearing. We are of the view that the EP Act and native vegetation clearing regulations should be used to achieve an overall environmental net gain, further biodiversity conservation and reduce greenhouse gases.

2.5 *Potential solutions*

There are three options to bring about a more proactive approach to native vegetation management under statute: (1) substantially increasing provisions under Part V of the EP Act to encourage protection, better management and restoration; (2) create a new part under that Act; or (3) create new legislation. The third option for a new Act is preferred.

2.5.1 *New Act*

Recommendations

- That a purpose-specific native vegetation legislation is established to conserve, protect and enhance native vegetation by:
 - promoting the retention and enhancement of native vegetation in quality and extent;
 - promoting re-establishment of native vegetation;
 - providing incentives and assistance;
 - promoting co-operative approaches to the protection and management of native vegetation involving governments, landholders and the community;
 - limiting clearing of native vegetation and ensuring clearing does not cause land or ecological degradation;
 - requiring sound reasons, demonstrated high social and/or economic importance and no viable alternative to the need, size/scale or location of a proposal prior to approving clearing;
 - reducing greenhouse gas emissions;
 - encouraging management and science;
 - ensuring monitoring and reporting on the quality and extent of native vegetation every five-years; and
 - ensuring that the public has access to relevant and meaningful information about native vegetation.
- That legislation establishes a native vegetation council to advise the minister on native vegetation matters, including: status and condition; statewide policy; supporting management and re-establishment programs; research requirements; effectiveness of legislation and regulations in meeting statutory intent and objectives.
- That native vegetation legislation promotes achieving an overall environmental net gain - in extent and condition of native vegetation - and in mitigating greenhouse gas emissions.
- That native vegetation legislation establishes a native vegetation fund to conserve, improve, establish and regenerate vegetation.

See further details in sections below for specific reforms.

2.5.2 *Use EP Act (Parts IV and V) to achieve an overall net environmental gain from clearing*

Clearing regulations should be used to meet an overall net environment gain, along with supporting native vegetation conservation and management. At the very least the intent of the clearing regulations should be to achieve a no net loss of native vegetation and biodiversity values within this framework of achieving an overall environmental net gain. In the current system, clearing is more or less an assumed right even when residual environmental impacts are found or if clearing is at variance/seriously variance with the clearing principles; and approval is the default position even in landscapes where little vegetation remains. The fact the government uses language like 'approvals process' and 'streamlining approvals' underscores this bias and points to a lack of duty of care. In our view, native vegetation retention and enhancement needs to be the default position, and any clearing needs to be clearly justified.

(a) Offsets

Currently, offsets are only applied if there is a significant residual environmental impact and the current government policy is to seek a 'like for like' replacement in these instances claiming "counterbalances" in losses. However, often in landscapes that have had significant loss of vegetation, and biodiversity, this can be difficult or impossible to achieve (see further comments on the effectiveness of using offsets in section 2.5.2).

The Victorian government has recognised that there has already been a significant loss of native vegetation in that State and has introduced legislation where *all* authorised clearing requiring a permit to clear must secure an offset before clearing can commence.

Towards this end, proponents in Victoria have two options:

1. buy a native vegetation credit from a third party, or
2. establish a first party offsite site on their own land.

Victoria has established an offsets credit register to assist proponents developing offsets prior to clearing.

The government also has to be committed to achieving an overall net gain through using incentives, government and voluntary programmes outside of the clearing regulatory framework.

Recommendations

- That the government require 'offsets' for all authorised clearing under permit (area and purpose), and clearing is only allowed provided there is a net gain for biodiversity and in mitigating greenhouse gases.
- Where a residual environmental impact is found, a greater level of offset should be applied to achieve a higher level of contribution in meeting an overall net gain.

- That offsets apply to all clearing authorised under Part V of the EP Act, via area and purpose permits, and Part IV of the EP Act where clearing is allowed including under local government planning schemes.
- Establish an offset credit scheme that calculates the cost and scale of impacts and offers a variety of offset improvement and protection mechanisms, including credit trading and banking.
- Establish an incentives package for greater retention and management of high value native vegetation and ecosystems to avoid loss of biodiversity values.
- Establish supporting complementary native vegetation management and incentives package outside the regulatory clearing framework that targets protection and conservation of vegetation in high risk areas. (see further comments and recommendations under sections 7, 9 and 10)

(b) *Recognise cumulative impacts*

Schedule 5 of the EP Act lists 10 clearing principles for assessing applications. These cover a broad range of values but are applied on a site-by-site basis, or per application.

Currently, there is no specific principle that covers cumulative impacts as result of clearing.

The wording in the clearing principles – Schedule 5 – needs to be changed whereby “*Native vegetation should not be cleared if*” is amended to “Native vegetation must not be cleared if-”.

Recommendation

- That an additional principle is mandated under the Act to cover cumulative impacts, and that assessment of clearing applications must consider this additional principle in coming to a decision.

Alternatively change the clearing principles to:

- Native vegetation should only be cleared if —
 - (a) it comprises a low level of biological diversity; or
 - (b) it does not comprise the whole or a part of, and is not necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia; or
 - (c) it does not include, and is not necessary for the continued existence of, rare flora; or
 - (d) it does not comprise the whole or a part of, and is not necessary for the maintenance of, a threatened ecological community; or
 - (e) it is not a remnant of native vegetation in an area that has been extensively cleared; or (f) it is not growing in, and is not in association with, an environment associated with a watercourse or wetland; or

- (g) the clearing of the vegetation is not likely to cause appreciable land degradation; or
 - (h) the clearing of the vegetation is not likely to have an impact on the environmental values of any adjacent or nearby conservation area; or
 - (i) the clearing of the vegetation is not likely to cause deterioration in the quality of surface or underground water; or
 - (j) the clearing of the vegetation is not likely to cause, or exacerbate, the incidence or intensity of flooding.
- Wording of Schedule 5 – clearing principles – changed to “Native vegetation must not be cleared if...”.

(b) *Exemptions from clearing assessment and permits*

Both the EP Act and clearing regulations outline a broad range of exemptions – around 40 categories in total. These require review with the aim to reduce the number, extent and complexity of exemptions to apply to essential services only.

In addition, exemptions are currently broadly applied. For example, exemptions are equally applied to relatively intact landscapes versus highly fragmented or intensively used landscapes. There needs to be a considerable reduction in exemptions for fragmented landscapes such as the Agricultural zone and Swan Coastal Plain, other over-cleared parts of the south west of the State, and environmentally sensitive areas (ESAs) or clearing that may impact ESAs (see further comments about extending and applying ESAs in section 2.12). If clearing is approved in these landscapes, it should be only be approved for exceptional circumstances and not by using general exemptions. Approving of clearing in these areas require a higher level of legally binding criteria that set thresholds and targets.

Clearing exemptions outlined under the clearing regulations are extremely poorly worded, and greater clarity is required. A rewrite of these are necessary.

In 2013, amendments to the clearing regulations increased the limited clearing area for all activities on a property, combined, from 1 hectare per financial year to not to exceed 5 hectares of clearing per year. This exemption needs to be rolled back to 1 hectare per year.

Similarly, amendments that came into effect increased “*The time for owners and occupiers to maintain previously lawfully cleared areas for pasture, cultivation or forestry, without a clearing permit has been increased from 10 to 20 years*”, (regulation 5, item 14). This exemption needs to be rolled back to 10 years.

Recommendations

- That the clearing exemptions are reviewed with the aim to:
 - reduce the overall number of exemptions;
 - eliminate exemptions in highly fragmented landscapes and ESAs and only allow clearing under exemptional circumstances, where a set of

legally binding additional clearing criteria apply after assessment. Where clearing is undertaken in these landscapes, there must be a comparable offset that far outweighs any loss by a factor of at least 10:1;

- make exemptions clearer under the clearing regulations through a rewrite;
- reduce the increase in combined clearing area from five hectares per financial year to one hectare;
- reduce the time to maintain previously lawfully cleared areas without requiring a permit from 20 to 10 years.

(d) *Lack of targets and thresholds*

There is no clear government position on acceptable ecological targets and thresholds for clearing for each mapped vegetation type across the State. A rule of thumb of less than 30 per cent remaining vegetation, or 10 per cent remaining for some areas, is used to assess applications against the principles. However, for some areas, for example parts of the Wheatbelt or Swan Coastal Plain where there is less than 10 per cent remaining or which are highly fragmented, this can lead to approval of clearing below these thresholds.

Setting assessment thresholds for each vegetation type would reduce confusion and help better focus clearing assessments, and protection. These should range from 50 to 100 per cent retention.

Recommendation

- Clearing thresholds for all broad vegetation types need to be developed where retention levels range from 50 to 100 per cent. This would better adopt the precautionary principle in coming to a decision.

2.6 *Establishment of an independent body to consider appeals*

Currently under the EP Act, appeals of decisions made are decided by the Minister for Environment after consideration by the Appeals Convenor, who sits in the minister's office. There is a distinct lack of independence inherent in the process. There is no ability for appeals to be considered by a specialist independent body, like an environment court or tribunal, such as found in other jurisdictions.

Recommendation

- That appeals under the EP Act are considered by a specialist tribunal or court.

2.7 *Revoke delegated authority to the Department of Mines, Industry Regulation and Safety*

The Department of Mines, Industry Regulation and Safety (DMIRS) has delegated authority for clearing of native vegetation for mineral and petroleum purposes under the 2011 Administrative Agreement between Department of Environment and

Department of Mines and Petroleum⁹. Under this agreement, DMP (now DMIRS) can assess clearing applications and issue permits along with setting conditions, including an offset condition. This has led to a variation in quality of assessments and setting conditions, including offsets.

Recommendation

- It is strongly recommended that the DMIRS delegation is revoked.

This would help consolidate assessments to a single agency under Part V of the EP Act, thus improve consistency of assessments and in setting conditions (including offsets). It would also reduce any perceived conflict of interest with DMIRS in facilitating resource development.

2.8 2020 Amendments to the EP Act

Amendments to the EP Act that are under consideration include allowing the CEO to determine if a clearing permit is required prior to assessment.

Recommendation

- Allowing the CEO to determine if a clearing assessment is required is strongly opposed as there is a likelihood it will cause adverse impacts and it is not subject to appeal.

2.9 Definitions required for variance with the clearing regulations

Key terms in the regulations for assessing clearing proposals are ill-defined, i.e. “is at variance with”, “may be at variance with”, “is not at variance with”, “is likely to be at variance”, or “is seriously at variance with”. This allows a level of subjectivity incoming to a decision.

Recommendation

- That the key terms “maybe at variance with”, “is not at variance with”, “is likely to be at variance”, or “is seriously at variance with” are defined in the clearing regulations.
- All seriously at variance with proposals must be formally assessed under Part IV of the EP Act.

2.10 Purpose clearing permits and assessment of clearing

There are two types of clearing permits issued: an area permit, usually provided for a single parcel of land; and a purpose permit that covers programs for clearing and which invariably covers more than one area.

⁹ Agreement between DWER and DMIRS <https://www.dmp.wa.gov.au/Documents/Environment/ENV-NVAB-021.pdf>

Purpose permits are a form of delegation to allow a proponent, e.g. Main Roads, mining companies etc, to provide area permits and authorise clearing.

Purpose permits gives flexibility to proponents to undertake clearing over a period of time and in a given area (sometimes statewide). In some instances, conditions are applied where the proponent has to report to the regulators if a specific value, e.g. threatened species, is found in a proposed clearing area and adjust the clearing footprint accordingly. However, it relies on a level of trust that proponents will do the right thing and have the right on-ground assessment in place to report.

Recommendation

- All purpose permits must report on actual clearing and detail 'avoidance' measures;
- All purpose permits must record all decisions and make these public;
- DWER must aggregate reporting on all purpose permits, indicating the total area cleared and total number of resultant offsets
- Any at variance and seriously at variance proposals under a purpose permit must be assessed under part IV of the EP Act by DWER.
- Any residual impacts found must be assessed by DWER.

2.11 *Biodiversity offsets under the EP Act*

In 2011, the government released the WA Environmental Offsets Policy, and in August 2014 the WA Environmental [biodiversity] Offsets Guidelines to accompany the policy. Both instruments have major shortcomings, along with the supporting underpinning legislation.

We welcome the upcoming review and greater strengthening of these documents to improve consistency, clarity and effectiveness.

2.11.1 *Effectiveness of using offsets*

Biodiversity offsets are used to compensate the Crown in return for developers and/or land managers to removing and destroying unique environmental values that cannot be mitigated or avoided, i.e. referred to as residual environmental impacts. The effectiveness of using offsets is questionable for many landscapes where little vegetation remains, or where cumulative impacts are known and there is a high probability of further loss of irreplaceable values.

A recent peer-reviewed study that quantified the effectiveness of 208 offset projects between 2004 and 2015 under the EP Act in Western Australia found that only 39 per cent of the offsets examined delivered an effective outcome, 30 per cent were found to be ineffective and close to 40 per cent of offsets could not be accounted-for¹⁰. However, the proportion of projects found to be effective is considered to be substantially lower. For example, the study only examined if a project increased the area of land for conservation purposes but not whether it was effective at a landscape

¹⁰ May, J. Hobbs, R. Valentine, L.E. 2017. *Are offsets effective? An evaluation of recent environmental offsets in Western Australia*. Journal of Biodiversity Conservation. pp 294-297.

scale (replacing 'like with like' values), actually gazetted (reserved) or that ongoing management leading to ecological outcomes was going to happen, or if they had, what were the outcomes. The study pointed out that the majority of offset projects failed to measure ecological outcomes or report against ecological indicators.

Therefore, the current use of offsets in WA to address residual environmental impacts are considered to have limited benefit compared to retaining high value native vegetation in situ, with appropriate management.

2.11.2 *Inconsistencies in setting offsets by regulators*

Under the EP Act, there are two parts used to apply environmental offsets:

- Ministerial statements, following Environmental Impact Assessment under Part IV, issued by the Minister for Environment; and
- Clearing permits under Part V, issued by the CEO of DWER or DMIRS.

Given that multi-agencies are involved in setting offsets, this has led to inconsistencies in quality.

It is a concern that offsets are being used to so-call 'counterbalance' clearing impacts when it is clearly obvious that in some highly fragmented landscapes, such as those in the south of the State, clearing is being authorised to destroy unique values.

Some offset projects are being given approval not to compensate residual impacts with 'like for like' biodiversity values. It is impossible to replace functioning ecosystems and unique values. Therefore, under no circumstances should offsets be used as instrument of approval or to get a clearing application 'over the line'. The use of offsets in this way is stridently opposed.

Examples of land acquisition in the offset register for highly fragmented landscapes invariable set offset land acquisitions at a coarse bioregional scale. For example, a project may purchase land within the Swan Coastal Plain bioregion, where actual clearing is proposed, rather than for a specific vegetation type or impact to a specific value. This may give flexibility to a proponent in selecting land considerably outside the development footprint/value being impacted, but it also allows land purchases that infrequently do not contain the same values.¹¹ There is a high level of subjectivity afforded in setting offsets in this way to achieve an overall net benefit where there is difficulty in meeting the criterion of 'like for like', and hence a tendency for those offsets to be removed from actual clearing impacts.

There are examples where it is questionable whether an approved offset meets the offset policy and guidelines and are really core management responsibilities that should be undertaken by a proponent. For example, refer to an approved DMIRS offset

¹¹ See for example project number 1918/2 in the Offsets Register by Western Power, where acquisition was used to acquire land some 40 km north of the project site that contained different values to those being destroyed by clearing. <https://offsetsregister.wa.gov.au/public/projectversion/259/>

to rehabilitate a tailings dam and waste dump to compensate for removal of 15 hectares of limited vegetation types.¹²

In other examples, offsets are not imposed as a condition if the assessment found that the project may have been at variance.¹³

2.11.3 *Lack of weighting offset components and limited timelines*

The current WA offset policy and guidelines do not weight the different offset types, such as giving greater importance to land acquisition or management of remnant vegetation for conservation in perpetuity over revegetation versus research, and similarly both the policy and guidelines give little direction, if any, about land acquisition and the requirement for suitable ongoing management once an area is acquired/protected.

There is also limited, but mainly nil, reporting on management once an area has been transferred to the Crown for management, for example DBCA conservation estate.

Offsets generally run concurrently with the length of the clearing permit to destroy, which is mostly five years. There is limited/nil accountability thereafter. In many cases, this isn't enough time to determine if offsets have been successful in providing outcomes.

2.11.4 *Use of third parties to implement offsets*

Responsibilities for achieving part or whole offsets are often transferred to third parties or delivery agents (government agencies, companies, academic institutions for example). There is concern about the lack of reporting on outcomes through these sources, and whether offset outputs and outcomes are being achieved. For example, once an area is acquired for conservation, there is generally no requirement for follow-up on management, ongoing monitoring, reporting of ecological outcomes, or if the area was actually proclaimed as a reserve and met the desired conservation category, such as Class A nature reserve.

There are several examples where funds have been transferred for acquisition purposes to a land management authority (for example DBCA), but there is no guidance on expected management activities or reporting about on ground management effectiveness once areas had been purchased¹⁴.

¹² See CPS 3045/5 at the WA Environmental Offsets Register for an offset approved by DMIRS to 'offset' residual impacts from clearing of up to 15 hectares of limited vegetation types to commence mining operations. The offset comprised successive rehabilitation of a tailings facility and waste dump.
<https://offsetsregister.wa.gov.au/public/projectversion/37/>

¹³ CPS no. 8724/1 – removal of up to 50 hectares of native vegetation for mining exploration where the assessment found that the proposal may be at variance from two clearing principles.
<https://cps.dwer.wa.gov.au/main.html>

¹⁴ See milestones for project number 1918/2 in the Offsets Register, where it was considered part of the offset was met upon purchase of lands, with no specified requirement of ongoing management, and lack of responsibility of the recipient of acquisition funds to provide outcome reports.

Under certain offsets, there is a strategy of hope being applied where it is automatically expected that third parties will do the right thing, but little follow-on accountability and reporting.

Improvements are needed on outcome-based reporting from proponents and delivery agents. Offsets for acquisition need to include provisions for ongoing management, monitoring and reporting post clearing permit timeframes.

Recommendations

- Greater guidance is required in the environmental offset policy and guidelines for securing offsets.
- An offset credit scheme is created to establish an offset or buy a vegetation credit with registered third parties, brokers and assessors.
- Offsets must be weighted towards protecting and managing remaining quality vegetation in perpetuity, especially in landscapes where little vegetation remains.
- Land acquisition offsets must include ongoing management and reporting on management outcomes and the date that the area was gazetted.
- The period of offset management and reporting must be increased to at least 10 years; with large scale offsets requiring ongoing management and reporting for up to 20 years after the commencement of a clearing permit.
- There must be greater clarity in policy documents on what 'like for like' and net benefit means, and criteria to achieve these ends.
- As recommended above, the delegation to allow DMIPS to assess and set permit conditions/offsets should be revoked and all assessments for clearing under Part V of the EP Act must come under a single regulatory authority.
- Greater guidance is required in design, implementation and reporting of biodiversity offsets, and greater transparency in decision making about offsets. It is strongly recommended that a State offset planning tool is developed that assists proponents and regulators in developing packages, for example expanding the Commonwealth offsets calculator.
- Greater accountability is required in using third parties to deliver all or part of an offset. This should include reporting on offset outcomes, as well as outputs. For example, if revegetation was a component of an offset, was it successful in achieving the desired goal to bring about functional connectivity or what outcomes were achieved from reservation of lands and then management of those lands.
- Funds should be transferred to the State to support future management activities including reporting and evaluation.

2.11.5 *Limited details and lack of reporting on offsets*

In some instances, there is a complete lack of details about offsets for major projects and reporting of these projects. For example, the offset for a Part IV assessment to allow Chevron to offset the residual impact on up to 32 hectares of the Class A Barrow Island Nature Reserve required that \$10 million be given to DBCA to extend a 12-year programme. In the WA Environmental Offsets Register that stated; “Milestone: *Contribution of funding to the DPAW; Timeframe: extending 12-year program*”¹⁵. There are no details on reporting requirements or whether activities are consistent with the objectives of the offset or whether outcomes are being achieved.

Recommendation

- That all offsets – past or proposed – must have regular outcome reporting requirements and milestones for outputs.

2.11.5 *Greater response in updating offset guidelines*

Greater response is required from DWER and Minister for Environment to ensure the most up to date and relevant information and guidance is available to proponents. The current 2014 offsets guidelines state: “*These guidelines will be updated as early as practical within twelve months to include further information on the use of metrics in determining offsets and on the determination and application of offsets for cumulative impacts.*” p.3. After five years, this is yet to happen.

Recommendation

- Updates to the offset policy and guidelines must be made mandatory every five years.

2.12 *Environmentally sensitive areas*

Environmentally sensitive areas (ESAs) are declared by the Minister for Environment under section 51B of the EP Act. The current Environmental Protection (Environmentally Sensitive Areas) Notice was gazetted in 2005. It is noted that under the proposed amendments to the EP Act provides for ESAs to be prescribed in regulations rather than in a notice declared by the minister. This provision is generally supported, but categories of ESAs requires expansion.

2.12.1 *Expansion of ESAs*

ESAs cover a broad range of values, tenure and areas. For example, World Heritage areas, Ramsar sites, threatened ecological communities, habitat of threatened flora, nationally important wetlands as defined in “A Directory of Important Wetlands in

¹⁵ See further details at <https://offsetsregister.wa.gov.au/public/projectversion/98/>

Australia” (there are 120 in WA), a wetland designated as a conservation category wetland in the geomorphic wetland, Bush Forever site etc.

However, additional values including areas recognised as having rich biodiversity and high value conservation areas are absent. This includes areas identified under the Swan Bioplan as Peel Regionally Significant Natural Areas, Bunbury Regional Scheme Conservation Areas, road and rail reserves in the south west agricultural zone, critical habitat¹⁶ and biodiverse hotspots high in species endemism.

Recommendation

- That environmentally sensitive areas are expanded to include areas of high biodiversity richness – hotspots – and high value conservation areas.

This includes areas identified under the Swan Bioplan as Peel Regionally Significant Natural Areas, Bunbury Regional Scheme Conservation Areas, road and rail reserves in the south west agricultural zone, and hotspots high in species endemism, Wheatbelt and Swan Coastal Plain bioregions.

2.12.2 *Reduce impacts in environmentally sensitive areas*

It is an offence to clear native vegetation without a permit except where in accordance with an exemption – either listed under Schedule 6 of the EP Act or those under the clearing regulations. While exemptions under the regulations do not apply to ESAs, where clearing is exempt under Schedule 6, no permit is required to clear within an ESA.

Therefore, non-exempt proposals seeking to clear within an ESA require to be assessed under the Act, while Schedule 6 exemptions currently do not. This situation can lead to unknown impacts, for example clearing occurring in a threatened ecological community or conservation category wetland through exemption. If clearing is approved, for a ‘non-exempt’ activity, it can lead to conditions and an offset. This creates inequity in the way clearing is allowed between non-exempt and exempt activities.

As recommended under section XXXX, clearing in ESAs should only be allowed under a narrow range of emergency scenarios, in accordance to a higher level of assessment criteria, which includes higher level of thresholds not to clear, and that all proposed clearing is assessed by DWER and the EPA, including ‘exempt’ activities under Schedule 6.

Recommendation

- That the EP Act and clearing regulations (and guidelines) must be changed so that there is a requisite for any proposed clearing within an ESA, or affecting an ESA, to be assessed, irrespective if an exemption applies.

¹⁶ Critical habitat assessment should also be undertaken as part of EIA for clearing (both Part IV and V) and such areas declared ESAs. Critical habitat is habitat that might not be a threatened and priority ecological community, but is required to support the continued existence of Threatened or Priority flora or fauna through provision of for example food resources, breeding resources, pollinators or mycorrhizal fungi.

- That clearing is only authorised in ESAs for a narrow range of emergencies, according to a higher level of assessment criteria and that all proposals, irrespective if seeking approval or exempt are assessed by DWER and the EPA.
- All clearing in an ESA must have an environmental offset secured, including for exemptions, before any clearing commences.
- Legislation must propose assessment thresholds for ESAs.

2.12.3 *Need for ESA statutory management plans*

While some values classified as ESAs have plans for management or recovery, e.g. World Heritage site area plans, many do not. There needs to be greater emphasis placed on development of area plans for nationally-listed wetlands, and conservation category wetlands on the Swan Coastal plain that are not covered under other area plans.

Moreover, most of the State's conservation reserves do have area plans. There is also a substantial proportion of recovery plans for listed threatened species, particularly flora, which are absent and out-of-date. Forty-two percent of threatened flora do not have any form of recovery plan. Of the 58% that do have plans, these are five-year interim recovery plans with most out of date by at least 10 years.¹⁷

A similar situation occurs with recovery plans for threatened ecological communities where most plans are interim five-year plans, and many are out-of-date, some by over 10 years.

There is clearly a need for the State to change the way it does its business and an alternative approach to ensure current recovery plans are in place. This must be given a high priority, and rectified.

While there is a need for long term recovery plans, an initial step would be to provide conservation advice, similar to that provided under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth), when a native species or ecological community is listed. Under that Act, conservation advice is published to assist its recovery and provide guidance on immediate recovery and threat abatement activities that can be undertaken to ensure its conservation.¹⁸

¹⁷ List of interim and recovery plans at <https://www.dpaw.wa.gov.au/plants-and-animals/threatened-species-and-communities/threatened-plants>. DBCA have published on its website regional plans for threatened flora but these are over 20 years old.

¹⁸ See further details and examples at <https://www.environment.gov.au/biodiversity/threatened/conservation-advice> and <http://www.environment.gov.au/biodiversity/threatened/species/pubs/3057-conservation-advice.pdf>

Recommendations

- All listed environmentally sensitive areas require a management or recovery plan.
- All new threatened species and ecological communities must have recovery plans under the *Biodiversity Conservation Act 2016* (WA) within one year of listing.
- Conservation advice is provided upon listing of threatened species and ecological communities to guide immediate recovery actions and there are to be published.
- All existing threatened species and ecological communities without a current recovery plan to have plans by 2025.

2.13 *Lack of legal basis for State of Environment reporting*

All Australian States, and the Australian Government, have legislated for three to five-year State of environment (SoE) reports, except Tasmania and Western Australia.

According to the WA EPA, “*State of the Environment (SoE) reports are designed to communicate credible, timely and accessible information about the condition of the environment to decision makers and the community*”.¹⁹ It also provides the public, governments and other decision makers on how effectively the environment is being managed and what the current and emerging key issues are. It allows for macro-scale planning and setting priorities (see further comments under Better Information section).

The last SoE report published by the Western Australia government was 13 years ago in 2007. Accordingly, the government has abrogated its responsibility in providing up-to-date information and a comprehensive picture of high-level problems and how effective programmes are in dealing with these issues. This has affected macro-scale government planning and priority setting.

It is important that assessments are undertaken on a regular basis, and in line with international standards and have a consistent framework and repeatable methodology.

Under law, the following jurisdictions have set regular periods for state of environment reporting: New South Wales every three years; Australian Capital Territory and Queensland every four years, but currently Queensland produces reports online every two years; and the Australian Government, Victoria and South Australia every five years.

Recommendation

- Provisions under the EP Act that imposes a function and powers for the EPA to produce five-yearly State of Environment reporting.

¹⁹ See further details on WA SoE at <https://www.epa.wa.gov.au/state-environment-reporting>

- Provisions in the EP Act to specify what constitutes a SoE report and what it must cover.
- Provisions that the Minister (government) must respond via a public report to a SoE report; and produce implementation plans within a year following publication of a SoE report and that these are binding on the State.

2.14 *Environmental Protection Policies*

In 2015, the then Minister for Environment revoked the Swan Coastal Plain Lakes Environmental Protection Policy (EPP) and the South West Agricultural Zone Wetlands EPP. There is no legislative requirement for public input before such a decision is made, nor Parliamentary approval. The former minister exploited this weakness, despite regulations and other relevant policies clearly being ineffective at preventing environmental harm.

It is widely considered that EEPs are required for wetlands in the south west agricultural zone and Swan Coastal Plain and these should be reinstated. Further, EEPs are required for Banksia and Tuart forests and woodlands of the Swan Coastal Plain.

Recommendation

- That EPPs under the EP Act are reinstated for south west agricultural zone wetlands, Swan Coastal Plain wetlands, and new policies for Banksia woodlands of the Swan Coastal Plain and Tuart forests and woodlands of the Swan Coastal Plain are written and gazetted.

2.15 *Biodiversity Conservation Act 2016 reforms*

The EP Act is reliant on the effectiveness of other legislation, particularly the *Biodiversity Conservation Act 2016*. For example, assessments under parts IV and V of the EP Act must consider impacts on threatened species and ecological communities listed under the BC Act. This relies on lists of species and ecological communities at risk from extinction to be accurate and up-to-date, i.e. all species and communities are in the right conservation category.

While there has been an attempt to mandate several conservation strategies under the BC Act, there are several major shortcomings. For the most part, Ministerial and CEO decisions are highly discretionary and lack meaningful public and Parliamentary scrutiny. There is no firm obligation for listing of threatened species, ecological communities, and key threatening processes or making plans such as may be found in other Australian and overseas statutes. Timelines for listing are absent, and updates can languish. Note: According to the DBCA website, it is claimed that threatened species listings are annually reviewed. However, the last notice for an updated list was made by the minister in September 2018, well over a year ago.

A significant omission is the lack of an obligation to establish a scientific advisory committee and a similar expert committee to assist in the implementation of the proposed Act, including for coordination and review.

Another glaring weakness in the BC Act is the general lack of public involvement in implementation of the proposed Act and scrutiny by the public and Parliamentary processes. Third party interests are limited to nomination of listings of threatened species and ecological communities prior to consideration, but not for other listings: critical habitat, key threatening processes and environmental pests. There are no provisions for involvement in reviews or third-party appeals.

There is also no obligation on the Minister to make public, reasons for listings, advice received or provide conservation advice that can be used in recovery/management at time of listings. Limited consultation with affected parties is required for the Minister and CEO in making decisions. The same degree of discretion and lack of scrutiny is reflected in provisions for making plans, programmes and conservation notices.

While the Minister must consider scientific advice before listing, there are no provisions to codify that advice via a committee.

There is a lack of definition of critical habitat under the Act, and the criteria is open to interpretation.²⁰ There is a heavy reliance on ministerial guidelines.

While there are provisions for removal and clearing of sandalwood under the Act, this is clearly unsustainable and is pushing this species towards extinction.

There are no provisions for a State biodiversity conservation strategy and periodic assessments of biodiversity to determine trends in overall state and condition.

Recommendations

- That the BC Act 2016 is reviewed as matter of urgency, with a view to modernising it.

The following changes and additions to the BC Act 2016 are suggested:

- make legislative objects explicit and specific with an overarching duty for the Minister and officials to promote and advance biodiversity conservation and that this is also binding on other legislation;
- removal of discretionary powers of the minister and CEO so that they ‘must’ undertake certain actions;
- mandate a framework to establish and periodically report on the trends in the state and condition of biodiversity, pressures and effectiveness of management interventions;
- include provisions to establish a statewide biodiversity strategy with periodic five-year reviews;
- include provisions to establish scientific advisory committees for listings and a committee to review of the Act, audit a State biodiversity conservation

²⁰ See ss 54(1) and 55 under the Biodiversity Conservation Act.

strategy and coordinate periodic five-year assessments and reporting on the state and condition of biodiversity;

- provide greater access to public interests, including through third party appeals, and ensuring relevant information is publicly available;
- increase scrutiny of decisions and processes by the public and Parliament, including establishment of an independent advisory committee to assist the Minister and oversee technical functions;
- adopt all IUCN categories and assessment guidelines and criteria for listing in full;
- include species and communities that are conservation dependent and data deficient, i.e. 'priority';
- undertake three-year periodic reviews of all listed species and ecological communities to ensure accuracy and that lists are up to date;
- include provisions for timelines to develop plans – management and recovery plans;
- include protection provisions and recognition of special values such as significant wetlands and areas/landscapes of biodiversity richness;
- include provisions for abatement plans for key threatening processes;
- improve definition of critical habitat to include habitat essential for the conservation of a viable population of species or community, whether or not that habitat is occupied or has special management or protection measures;
- ensure the provision of publicly available conservation advice on the listing/de-listing of a species/ecological community, which at a minimum contains the reasons for listing/de-listing and functions as an immediate interim recovery plan, guiding actions and priorities while a final recovery plan is being developed;
- ensure adequate time-lines for listing/de-listing proposals, programme reviews and public input there to are provided; and
- include provisions that will ensure conservation of sandalwood, including: (i) establishing an adequate ecological evaluation programme to determine state and sustainable harvest rates; (ii) making of a management plan, obtaining independent scientific expertise and public consultation before setting harvest quotas and outlining suitable criteria for decision making; (iii) public notification of harvest quotas that provides justification and ability of third part appeal; and (iv) periodic reviews that are inclusive of public and scientific involvement and scrutiny.

As expressed above, the removal of sandalwood in the wild is not sustainable. Hence, it is strongly recommended that all clearing/removal of this species is made illegal.

2.16 *Listing of key threatening processes under the Biodiversity Conservation Act 2016*

Under the BC Act, Division 3, s.34, the minister may by order list key threatening processes. A threatening process for listing is eligible if it could cause native species or ecological communities to become threatened, cause two or more listed threatened species or communities to move to a higher category, or significantly contributes to degradation of critical habitat.

NSW has taken steps to list “anthropocentric climate change” in 2000 and “clearing of native vegetation” in 2001 as key threatening processes under its legislation in recognition that many species will be adversely affected and that “loss of biodiversity as a result of loss and/or degradation of habitat following clearing and fragmentation of native vegetation” is likely to occur.^{21 22}

Since April 2001, land clearing has been recognised by the national Threatened Species Scientific Committee for listing as a key threatening process under the under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).²³

Continued decline in native vegetation in WA, with current clearing rates and effects from a rapidly changing climate impacting on biodiversity, are highly likely to adversely affect species and ecological communities.

Under the EPBC Act, *Phytophthora* dieback is listed as a key threatening process due to its actual and potential impacts on threatened species and ecological communities.

Similarly, in 2010 the former Department of Environment and Conservation estimated that 850 species are at risk of extinction from salinity and waterlogging in the Agricultural zone.

Recommendation

- The Minister for Environment list the following as key threatening processes under the BC Act, and prepare appropriate abatement plans or put in place effective management frameworks:
 - native vegetation clearing;

²¹ <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/2000-2003/anthropogenic-climate-change-key-threatening-process-listing>

²² <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/2000-2003/clearing-of-native-vegetation-key-threatening-process-listing>

²³ Link to advice from the Threatened Species Scientific Committee
<http://www.environment.gov.au/biodiversity/threatened/key-threatening-processes/land-clearance>

- anthropogenic climate change;
- *Phytophthora* dieback;
- Dryland salinity (secondary salinisation of lands and waters).

2.17 *The Conservation and Land Management Act*

The CALM Act is Western Australia's principal statute that provides a framework for the conservation and management of terrestrial and marine reserves, and State forests. It plays a critical role in the management of native vegetation.

The Act establishes the Conservation and Parks Commission, in which the majority of conservation waters and lands under the Act are vested, i.e. State forest, national parks, marine parks, conservation parks, marine management areas, marine nature reserves and nature reserves etc; and which DBCA manages on behalf of the people of Western Australia.

It gives broad powers to the CEO of the Act (DBCA) for biodiversity conservation and science, and to management lands.

DBCA manages over 30 million hectares of lands and waters (around 26 million lands and 4.7 million marine reserves), with the majority of those areas vested in the Conservation and Parks Commission.

The Act provides powers that allow the Commission to develop area management plans and an auditing function for the implementation of those plans; and allows for joint vesting with Aboriginal corporate bodies for terrestrial reserves.

2.17.1 *Amendments to the CALM Act in 2015*

In 2015, amendments to the CALM Act removed and changed some critical functions and powers relating to the vesting authority, including:

- Abolition the nine-person Conservation Commission of WA and seven-person Marine Parks and Reserves Authority, and establishment of a seven-member Conservation and Parks Commission;
- Removed the need for specific areas of expertise in the membership of the Conservation and Parks Commission, such as biodiversity conservation, environmental management and sustainable use;
- Removed powers to establish the Marine Parks and Reserves Scientific Committee;
- Removed the ability for the vesting authority to develop policies for the ... "*preservation of the natural environment of the State...*" and "*for promoting the appreciation of flora and fauna and the natural environment*"; and
- Removed the powers of the Commission to "*engage and manage staff*" and ability to engage contractors.

DBCA, is now responsible for providing 'assistance' and staff to the commission. There is an inherent conflict with DBCA controlling resourcing to the commission; given that the commission audit's DBCA. Amendments also gives the minister flexibility in the make-up of membership.

In effect, these changes weakened the independence and role of the commission and makes it solely beholden on DBCA for resources (financial and staffing).

The 2015 amendments included a provision that the minister is to “*carry out a review of the operations and review of the commission after the expiration of 5 years from the commencement of the Conservation and Land Management Amendment Act 2015*”. This review is due in 2020 and should be initiated as soon as possible.

2.17.2 *Need for Objects and management objectives*

While the CALM Act describes a range of functions and powers, there are no overall Objects.

Purposes and management objectives are generally absent for terrestrial reserve categories, in so far that these are narrowly defined in general as “*the conservation of flora or fauna, or both flora and fauna*”. These need to be modernised and aligned to IUCN protected area categories and management objectives and criteria.²⁴

2.17.3 *Mining and exploration in conservation reserves*

For all intents and purposes, mining is generally not allowed in Class A reserves. An exception would be the Class A Barrow Island Nature Reserve. Mining leases and general purposes leases under the *Mining Act 1978* (WA) cannot be granted in national parks, class A nature reserves or marine parks or marine nature reserves without the consent of the Minister for Mines, the Minister responsible for those reserve and both Houses of Parliament.

Mining in reserves that are not class A reserves only requires the consent of the Minister for Mines, who must first consult with the Minister responsible for the reserve. There are no concurrence powers with the Minister for Environment, where approval must be obtained.

The various statutes need to be amended so that mining and exploration needs the approval of the Minister for Environment in reserves that are not Class A.

The EP Act should be amended to require the referral to the EPA under Part IV any proposal to grant of a tenement over the reserve categories of national park, Class A nature reserve, marine park and marine nature reserve. Similar provisions should apply to petroleum and geothermal energy resources.

Furthermore, conservation parks – many of which are unclassified reserves under the Land Administration Act– need to made Class A reserves.

²⁴ See IUCN protected area categories and management objectives at <https://www.iucn.org/theme/protected-areas/about/protected-area-categories>

2.17.4 *Inconsistencies in statutory consultation of area plans*

Despite the Act requiring that management plans are developed for all lands vested with the commission, there remains a significant number of reserves without plans, and many plans have passed the statutory time limit of 10 years, e.g. John Forrest National Park 1994-2004; Mooradung Nature Reserve 1985-1995. The Act imposes no time requirement by which a plan needs to be developed upon reservation.

The amendments in 2015 did not alter inconsistencies in provisions for management planning processes between terrestrial and marine reserves. For example, draft (indicative) marine reserve plans require a three-month statutory consultation period after the minister receives a report from the commission and has approved them; the length of public consultation of terrestrial reserves is at the discretion of the CEO (as long as the consultation period is not shorter than two months).

2.17.5 *State of the Parks reporting*

Despite the enormous responsibility of managing Western Australia's network of terrestrial reserves, DBCA has never produced an outcome-based report similar to State of the Parks reporting in NSW, Victoria and Tasmania (see also further comments around outcome-based reporting on marine reserves under section 11). In other words, the department has never demonstrated overall management effectiveness and value for money. This is viewed as a major impediment in knowing whether recovery or gains in the extent and condition of native vegetation is being achieved, and whether publicly-funded programmes are making a difference.

2.17.6 *Function to plan and establish a reserve system*

Section 33(1)(daa) of the CALM Act confers a function to the CEO *“to promote, encourage and facilitate the planning for and establishment of a comprehensive, adequate and representative system of reserves for the purposes of conserving, protecting and managing biodiversity and biodiversity components in the State”*.

There are no definitions around these terms or criteria in achieving this goal, plus there is no duty imposed on the minister towards this end or requirement for a strategic plan to achieve a fully comprehensive, representative and adequate system (see further comments and recommendations under sections 8.1.2 to 8.1.4).

2.17.7 *Marine reserve proposal concurrence powers*

Approval of indicative (draft) marine reserve proposals, and final marine plans require the concurrence of the minister for fisheries and mines. In other words, these ministers have veto rights over establishment of marine reserves, including zoning schemes. These powers have been used to ensure that extractive industries have dominant rights (first in, best dressed) over maximising reserve design for conservation outcomes. This has led to a less than satisfactory marine reserve system, with boundaries and zoning schemes not protecting high values in some areas (see further details and recommendations under section 11.4).

2.17.8 *Summary*

In summary, there are several major deficiencies in the CALM Act:

- It lacks Objects;
- It lacks a contemporary set of purposes and management objectives for the various categories of conservation reserves and other lands;
- Key definitions are missing;
- There are inconsistencies in management plan development and approval processes;
- There is no requirement for regular outcome-based reporting on the conservation reserve system;
- A ministerial duty is lacking to promote establishment of the conservation reserve system, and in meeting national requirements;
- Many area management plans are absent or out of date;
- Mining and exploration are allowed in conservation reserves, and the Minister of Environment only needs to be consulted by the Minister for Mines;
- Concurrence powers to the Ministers of Fisheries and Mines effectively gives veto rights to the establishment of marine reserves and zoning schemes;
- The Conservation and Parks Commission's ability to perform its functions are compromised whereby the department it is auditing provides it resources to allow it to function;
- Amendments to the Act removed the function that allowed the Conservation and Park's Commission to develop policies.

Recommendations

- That a review of the CALM Act is undertaken as a matter of urgency, and towards modernising it in line with national and international standards. This should include a review of Conservation and Parks Commission in 2020.

The following changes and additions to the CALM Act are suggested:

- Provisions under the CALM Act are reinstated to allow greater independence of the Conservation and Parks Commission to undertake its function in regard to management planning, policy development and auditing. This includes providing finances and resourcing independent from DBCA.
- Broad areas of expertise are reinstated for commission membership, and to prevent politicisation by inclusion of a set of eligibility criteria.
- A State of the Parks reporting framework, with five yearly reports, to allow outcome-based evaluation of the conservation reserve system and in meeting biodiversity objectives as provided under the CALM Act.
- Management intent and objectives, in line with the IUCN protected area guidelines, are clearly stated for all reservation categories under the CALM Act.

- Statutory timelines for public consultation for area management plans must be at least three months, in line with marine reserve establishment timelines.
- Upon reservation of new areas, management plans must come into effect within 1 Calendar year.
- A duty and role for the minister in establishing the conservation reserve system must be clearly stated, and definitions for ‘comprehensiveness’, ‘adequacy’ and ‘representativeness’ must be prescribed in the Act, in line with the National Reserve System strategic plan.
- Concurrence powers of the Ministers of Fisheries and Mines must be changed, whereby those ministers are consulted over marine reserve proposals rather than allowing them to veto whole/parts.
- That various statutes are amended where the approval is required from the Minister for Environment to undertake mining and exploration in all reserves.
- That the EP Act should be amended to require the referral to the EPA under Part IV any proposal to grant of a tenement over the reserve categories of national park, Class A nature reserve, marine park and marine nature reserve. Similar provisions should apply to petroleum and geothermal energy resources.

3. BETTER INFORMATION

DWER is commended in acknowledging in the issues paper some current deficiencies in information to allow sound decision-making around native vegetation clearing, and a willingness to take steps to resolve this critical matter.

The paper notes: *“With the datasets and systems we have, we cannot comprehensively track where native vegetation has been authorised for clearing, or how much is actually cleared each year...”*; and

“...data systems and processes don’t provide statewide, regularly updated information” for either the extent, condition and type of native vegetation, or how it is managed, pp15-16.

Moves to resolve the above matters are supported; however, these need to be fit-for-purpose, including with respect to data collection.

In general, there are three main concerns with the current level of information provided by government for natural resource management and/or to address major environmental issues:

- limited information is available that would inform public debate and aid in State and (bio)regional level planning;
- lack of fit-for-purpose data and information (especially for monitoring, evaluation and reporting) in a useable form to assist in programme delivery and

improve decision making, particularly at a State level but also for smaller scale projects;

- lack of sustained and periodic information about major environmental issues; and
- lack of publicly-available information regarding compliance with environmental approval conditions.

3.1 *Accurate information on clearing*

Improvements are needed on information released to the public regarding the extent and amount of clearing. The issues paper suggests around 600,000 ha of native vegetation had been approved for clearing under Part V of the EP Act since regulations were introduced in 2004. However, DWER's website on clearing statistics for approved Part V permits (for both DWER and DMIRS combined) gives a total figure of around 202,000 hectares²⁵, and data for the years given between 2011 to 2015 on that site differ from clearing statistics provided to Parliament in November 2015.²⁶ There is a disparity between publicly available clearing information.

Currently, there are no annual statistics provided in a single place on the number and area of authorised native vegetation clearing under Part 5, and no statistics on Part IV authorised clearing and via area and purpose permits.

Information that is provided needs to be accurate.

Recommendation

- That the EPA publishes an annual report card on clearing that:
 - details the current situation about clearing – extent, condition, pattern;
 - provides statistics on all approved clearing under Part V (area, number of permits, location at a subregional scale), including from purpose permits and under Part IV approved clearing; and
 - details the progress in resolving relevant administrative and information issues.

3.2 *Improvements to DWER's websites about clearing needed*

There are three main web portals for public viewing of information about clearing applications, permits and offsets: the CPS (clearing permit system) within DWER's main website; an ftp database on all Clearing Permit applications; and a separate website about offsets called the WA Environmental Offsets Register.

²⁵ Link to Clearing Statistics - Approvals under Part V, Division 2 of the Environmental Protection Act 1986
<https://dwer.wa.gov.au/clearingstatistics>

²⁶ See extract from Hansard, Tuesday 17 November 2015, pp8390b-8391a, and answer provided to Mr Chris Tallentire from Mr Albert Jacob.

Under the CPS website or database, many details about previous clearing approvals are absent, for example most correspondence and decisions made by the former DMP (now DMIRS); and information about offsets in the CPS are elusive.

Recommendation

- All information about clearing, and clearing decisions, environmental offsets should be available through a single portal; hence the two datasets of CPS and WA Environmental Offset Register need to be consolidated within a single website portal.
- Details about environmental offsets need to be more prominent in the CPS database, and how these were derived.

3.4 *Better information on native vegetation types and their extent and status*

A limiting factor in setting vegetation clearing targets and thresholds is the lack of overall native vegetation mapping in WA, and a classification of vegetation to indicate some level of risk from clearing and its conservation status. In Queensland, “regional ecosystems” have been systematically mapped across the State at a scale of 1:100,000. These are delineated according to a number of land and vegetation characteristics, then classified according to the level of pre-clearing extent and area of remaining vegetation and given a conservation status – endangered, of concern and least concern. This allows a level of bioregional and local variation to be determined in making decisions on clearing and setting levels of protection/clearing. This mapping is supplemented with other forms of mapping, such as critical habitat, wetlands and watercourses.

In WA, a coarser level of vegetation mapping is used and those vegetation types have not assigned a conservation category and/or level of retention.

Recommendations

- That the State invests in a statewide native vegetation mapping system that provides clearing targets and thresholds and a conservation status for each vegetation type, and native vegetation retention targets at 1:100,000.

Retention categories within a vegetation type should range from 50 to 100 per cent. A complementary ground-truthing program needs to verify boundaries and overall condition of vegetation within polygons.

3.5 *Poor program design and delivery*

The native vegetation issues paper touches on the need for some monitoring and information issues to be resolved that puts clearing into context and allows better decision making. These proposed improvements are supported. However, this is only part of the problem.

There has also been a long history of WA Auditor General reports, dating back to the mid-2000s, that have indicated a lack of ability of vegetation-related government programs to demonstrate management effectiveness, maintain collecting of necessary

data and information, analyse that data and then report on outcomes (versus activity-level reporting). For example, reports on Ramsar wetlands management in 2006, threatened species management in 2009 and 2017, management of pastoral lands in 2017 and more recently salinity management in 2018.²⁷

Poor design and execution of programs is often underpinned by:

- a lack of fit-for-purpose data collection and/or evaluation;
- non-provision of information in a useable form for decision making;
- irregular (or non-existent) provision of critical information;
- ad hoc budget cuts applied within State agencies; and
- an absence of sound governance (see sections 7.1.1 and 13).

The following are a few examples:

The WA Auditor General concluded in the May 2018 report on salinity management:

“Agencies do not have good information about the current extent, impact and cost of dryland salinity and are therefore not well positioned to manage the risks and provide direction and advice. In large part, this is because since 2008 agencies have reduced monitoring and evaluation, and the Soil and Land Conservation Council, the key independent advisor to Government, has not met since 2003. This impacts on the State’s ability to manage salinity effectively and efficiently, and increases the risk that poor decisions will be made.”

In March 2019, the follow-on review on salinity management by GHD for the Department of Primary Industries and Regional Development put it more succinctly: *Agencies do not know, accurately, the changes in extent and impacts of secondary dryland salinity since the last quantitative measure in 2000...*

In October 2017, the WA Auditor General’s assessment on the management of pastoral lands in Western Australia concluded:

“...the extent of land condition issues across the State is not well documented under this approach, leading to a high risk that broader scale degradation will continue.”

“The State does not have a comprehensive and accessible record of land condition and pastoral management information.” pp8-9

There is a reoccurring theme being picked up by the Auditor General; many decades after the fact.

However, the onus shouldn’t be on the Auditor General to find these problems every decade or so by chance. A key issue for the State government to resolve is to prevent the tendency for large scale environmental problems to become out-of-sight, and out-of-mind after initial political interest has subsided. Put simply, momentum to address widescale environmental problems frequently dies when an issue becomes less political, and sound structures and processes and legislation aren’t in place. The ability

²⁷ <https://audit.wa.gov.au>

of the State to systematically acquire knowledge, and then apply that knowledge to improve decision making, needs a sound legislative basis to ensure that ongoing natural resource problems can be effectively management at the correct scale. This is frequently lacking.

The State needs to invest in a fit for purpose monitoring, evaluation, review and improvement approach to determine extent and condition of vegetation at State, bioregional and local scales. This requires dedication over long periods of time. It is not simply a case of picking readily available data that were collected for other purposes, such as biological surveys used in environmental impact assessments (Index of Biodiversity Surveys for Assessments), then trying to apply these against another end.

3.7 *Adaptive management*

There is little evidence that supports claims the State practices adaptive management at a macro scale for widescale problems. There is lack of an explicit adaptive management approach that purposely and continually improves knowledge, tracks the impact of management interventions over time and periodically reports on outcomes (as noted above).

Sustained and regular natural resource evaluation and adapting to circumstances is clearly needed. Clearing is a good case in point, where after 15 years of implementing regulations, the overall impact is unknown because there was no comprehensive attempt to collect relevant data and then analyse them in order to provide information to base clearing decisions on. However, this problem can also be seen in other areas – some of which are noted above.

Reporting, if it does happen, rarely meets expectations, e.g. Mid-term performance review of the Forest Management Plan 2014-2023 in 2018-2019 where DBCA hadn't invested in monitoring and planning over five years and couldn't demonstrate effectiveness of its management, and whether biodiversity and native vegetation overall was improving or otherwise. The final report on the mid-term review published by the commission in 2019 noted:

The assessment of the achievement of performance targets for KPIs [key performance indicators] related to biological diversity and ecosystem health and vitality required information to be available from the Department through relevant regional nature conservation plans or regional fire management plans. This information was not readily available at the time of the review requiring consideration of relevant and appropriate surrogate measures. Although these surrogate measures did in many instances provide an indication of the status of the performance indicator, the lack of data made it difficult to draw conclusions with confidence. p.xiv of final review

Need for better information is only part of the problem, there is a fundamental flaw in programme design and implementation.

Other recommendations for better information are contained in other parts of this submission – for example wetland conservation.

4. A BIOREGIONAL APPROACH

Complementary approaches that emphasise ecosystem-scale planning are required to limit cumulative impacts from native vegetation clearing and manage other threatening process and land uses. Bioregional planning for vegetation management is supported as a means to promote protection of biodiversity and ecological integrity, and sustainability of natural resources.

Such an approach will require incentives to actively management habitat and vegetation values within and across bioregions and investment from State and local governments. To be successful in the long run, bioregional planning must be under statute. Active coordination from State government will be required to ensure a consistent framework, approach and standards are applied.

The government must complement a bioregional approach with improved state level processes in planning and management, and setting of priorities, targets and thresholds for both vegetation clearing and biodiversity protection.

It should be noted that *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) provides for bioregional plans in section 176. WA legislation should be consistent with the EPBC Act provisions.

Recommendation

- Provisions for bioregional planning must be included under WA legislation, and a bioregional approach must include the following:
 - Community involvement at all stages, together with commitment from local government authorities and the State Government;
 - State level coordination of bioregional planning processes, and integration of activities across different governments (national, State and local);
 - Investment in research to improve understanding of native vegetation and biodiversity values;
 - Scientific-based decision making and priority setting to achieve a net benefit in the extent and condition of native vegetation at a bioregional scale;
 - Incorporation of strategies and targets from bioregional planning into other planning and regulatory processes to achieve a net improvement of native vegetation extent and condition;
 - Setting of targets and thresholds for native vegetation retention and condition;
 - Setting targets for formal protection of biodiversity; and
 - Ongoing evaluation and appraisal that measures progress, and periodic public reporting.
- Bioregional planning needs complemented with State level planning that amongst several matters must set targets and thresholds for clearing, and targets for biodiversity protection.

OTHER NATIVE VEGETATION AND BIODIVERSITY MANAGEMENT ISSUES

5. COLLAPSE OF STATE-FUNDED LANDSCAPE CONSERVATION INITIATIVES AND INADEQUATE WHOLE OF STATE COORDINATION

Successive governments have neglected investment in resource condition evaluation and reporting of native vegetation and biodiversity, and in recent years many programmes that aimed to benefit native vegetation management and recovery of biodiversity across Western Australia have been abolished or unravelled becoming dysfunctional (or at best, extremely limited). There has been a distinct absence of government oversight and accountability applied to State agency programs, and poor coordination.

In the past five years, there has been an incremental abolition and unravelling of some key State agency programmes aimed directly or indirectly at native vegetation management and recovery of biodiversity. Examples include:

- Mallee Research and Development programme to foster uptake of broadscale native plantings and carbon sequestration in the low rainfall areas (300-650 mm rainfall per year) of the south west abolished in 2014;
- Natural Diversity Recovery Catchments Programme between 2014 to 17; and
- South West Wetlands Monitoring Programme in 2018, which had been undertaken for over 40 years since the late 1970s;
- Running down of the Land for Wildlife scheme aimed at providing habitat management advice and supporting private landholders, which was severely reduced from 12 staff to one, and a budget reduction of over 70 per cent in 2015 (it is noted, that according to DBCA annual reports, there was reduction of 31 properties under the scheme between the financial years of 2017-18 and 2018-19 from 1975 to 1944 properties). Also note decline in rate of landholders joining the scheme²⁸; and
- Loss of Urban Landcare funding for community-based groups in 2017.

It should be noted the irony of abolishing the mallee plantings programme, given that DBCA's Director General has an obligation imposed under the CALM Act, s.33(1)(cc), *"to promote and encourage the planting of trees and other plants for the purposes of the rehabilitation of land or the conservation, protection and management of biodiversity and biodiversity components in the State"*.

The Western Australia Auditor General's report on management of salinity in 2018 documented some of these losses, and noted that;

- overall agencies were not meeting their legislated responsibilities;

²⁸ Since the Land for Wildlife scheme commenced it averaged around 90 new properties per year until it started to decline in 2015 due to loss of staff and funding. According to DBCA's annual reports only five new properties were added to the scheme in 2016-17; 23 new properties in 2017-18 and 23 new properties in 2018-19, but there was an overall reduction in the number of properties in the most recent financial year by 31 properties.

- there is little coordination of efforts to manage dryland salinity;
- focus has lacked strategic direction; and
- agencies have failed to continue monitoring and evaluating outcomes.²⁹

In May 2018, the WA Auditor General concluded in Management of Salinity Report 8:

“Since 2008, there has been a lack of strategic direction and agencies have reduced monitoring the extent and impact of salinity.”

“...in the absence of strategic direction, agencies have focused on protecting individual assets, and there has been little coordination of efforts between agencies, landholders and stakeholders.”

Despite widescale recognition that landscape recovery can take multiple decades, even centuries, there has been a rapid removal of public investment by agencies to address some key natural resource management issues.

Other initiatives such as the Western Australia Biodiversity Audit II between 2012 to 2015 to provide government and other stakeholders information and help with decision making and setting priorities failed to reach fruition with a lack of analysis and public release of a final report on key findings with recommendations. This assessment involved over 120 of WA’s experts in biodiversity and cost over \$570,000 but it was never finished. The first audit was published in 2001.

Regional comprehensive biological surveys and assessment programs have been made ineffective with reduction in staff and funding removed. The last comprehensive survey undertake was the Kimberley islands biological survey in 2006 to 2013. The Pilbara Bioregion Biological Survey undertaken by DBCA and WA Museum between 2002 and 2007 at a cost of \$14.15m, with the focus on giving context to environmental impact assessments and further conservation, remains uncompleted for flora information. Fauna information, however, was published from this survey in two volumes in 2009 and 2011.³⁰

Other programmes have been placed in lengthy hiatus, such as State of Environment reporting.

As with salinity management, there has also been a reluctance to actively coordinate across government and industry sectors on issues such as wetlands conservation, where the ministerially-appointed Wetlands Coordination Committee has been repeatedly prevented from meeting, addressing high priority issues, and providing

²⁹ For details see

[https://www.parliament.wa.gov.au/publications/tailedpapers.nsf/displaypaper/4011342a6e426cf28793cecc4825828f0016390c/\\$file/1342.pdf](https://www.parliament.wa.gov.au/publications/tailedpapers.nsf/displaypaper/4011342a6e426cf28793cecc4825828f0016390c/$file/1342.pdf)

³⁰ For further details see <https://www.dpaw.wa.gov.au/about-us/science-and-research/biological-surveys/115-pilbara-biological-survey>

advice³¹. As noted below, there has been a failure by government to replace the out-dated 2007 Wetlands Conservation Policy for Western Australia.

There is a growing disconnect between the State government and its conservation agencies to maintain delivery and focus on priorities.

Recommendations

- There needs to be greater oversight by government of State agency programs, and a greater level of accountability applied.
- There needs to be a substantial reinvestment in staff and resources in landscape conservation initiatives to build capacity to previous levels, build contextual knowledge and new targeted investments to expand conservation initiatives.
- There needs to be completion of projects, such as the WA Biodiversity Audit II, to inform future management and science priorities and assist government in better decision making and targeting of investment.

6. SUPPORTING POLICIES AND STRATEGIC PLANS

6.1 *A Western Australia Biodiversity conservation strategic plan*

As indicated in DWER's issues paper, management of native vegetation is inextricably linked to conserving WA's unique and rich biodiversity; and vice versa. However, it is disappointing that Western Australia is the only Australian state that does not have a biodiversity conservation strategic plan, despite releasing a draft strategy by the Labor government in December 2006 for a lengthy four-month period. This document has never been finalised.

There remains a significant gap and need for coordination and greater leadership at a State level across all sectors and community-based efforts to reverse the decline in biodiversity.

Recommendation

- Complete a biodiversity conservation strategic plan for Western Australia that outlines goals, strategies, targets and a performance framework. This is critical to help support an effective native vegetation policy.
- That a State biodiversity conservation strategy is provided for under the provision of the *Biodiversity Conservation Act 2016*, including a requirement for five-yearly reviews, and implementation plans.

³¹ See Parliamentary question (Question on Notice 2550, 15 October 2019) asked by Hon Diane Evers, and reply from Mr Stephen Dawson, Minister for Environment.

6.2 Update and replace the State policy and strategic plan for wetlands conservation

The *Wetlands Conservation Policy for Western Australia 1997* (which also includes a statewide strategic plan) is widely regarded as out-of-date and in need of being replaced by a new wetlands policy and strategic plan. In 2007, the EPA recommended finalisation and implementation of the revised State's wetlands conservation policy.

The ministerially-appointed Wetlands Coordination Committee, recognising this need, produced a draft replacement policy in 2007. It has not been released for public consultation and hasn't been finalised by the Minister for Environment (see further comments about wetland conservation requires below).

Recommendation

- A replacement State wetlands conservation policy and strategic plan is urgently needed and prescribed in regulations and made legally binding.

7. WETLAND CONSERVATION

Wetlands play a critical role in the natural environment. It is estimated that WA wetlands contain more than 20 per cent, or over 3,000, of WA's 12,500 recorded native plants.³² There is an enormous diversity of wetlands in the State that support important vegetation and biodiversity values. Many of these have been recognised nationally and internationally, e.g. listed as nationally important and designated as Ramsar sites.

Numerous wetlands have been lost or are in decline. Around 80% of wetlands have been lost on the Swan Coastal Plain, and only 17 per cent of the remaining wetlands have high conservation significance and only four per cent are formally protected (based on 2007 State of Environment report). In 2007, the EPA reported that "*wetland vegetation on the Swan Coastal Plain is being lost or degraded at the rate equivalent to two football ovals per day*"; and that there had been severe and widespread loss of wetlands in the Agricultural zone from salinity or waterlogging due to broadscale loss of native vegetation.³³

The WA EPA in its 2014-15 annual report wrote that "*Many of the State's aquatic systems remain at risk from climate change, nutrient pollution, and clearing or modification due to development.*" p.61³⁴

³² https://www.dpaw.wa.gov.au/images/documents/conservation-management/wetlands/Wetland_management_guide/managing-wetland-vegetation.pdf

³³ See further details in the 2007 State of Environment report at http://www.epa.wa.gov.au/sites/default/files/4_WA_SOE2007_INLAND%20WATERS.pdf

³⁴ https://www.epa.wa.gov.au/sites/default/files/Annual_reports/EPA%20Annual%20Report%202014-15-web.pdf

7.1 Reduction in government-funded wetlands conservation and coordination

Despite the enormous diversity, biodiversity richness, high levels of endemism and the important role that wetlands play, there have been major reduction in government programmes aimed at wetlands conservation within the past five years and a prevention of coordination of wetlands conservation across government levels and State agencies.

7.1.1 Wetlands Coordinating Committee

Under the 2007 State wetlands policy it states: “A *“Wetlands Coordinating Committee” will be established to coordinate the implementation of this policy and the activities of relevant agencies with respect to wetlands.*” and *“The Committee will report directly to the Minister for the Environment.”*³⁵ Membership of this committee includes representatives from State government agencies, local government, non-government expertise and is currently chaired by DBCA.

The committee used to operate regularly, with three to four meeting per year, and perform its function. However, since 2013 it has been prevented from regularly meeting with sustained obstruction from the DBCA-appointed chair (see Parliamentary question and answer in footnote about this issue).³⁶ Advice and information from the committee has been prevented by the department from going to the minister, and the committee’s meetings have been curtailed to ad hoc and infrequent meetings to about once every two years, and many agenda items put forward by members have not been allowed.

Recommendation

- That the ministerially-appointed Wetlands Coordination Committee is chaired by a non-government independent person with wetland knowledge and expertise.
- Regular meetings are resumed to allow the committee to carry out its functions of coordinating all wetland conservation programs/activities, and that advice is regularly provided to the minister on key matters.

7.1.2 State wetlands buffer guidelines

As recommended above, the *Wetlands Conservation Policy for Western Australia 1997* requires replacing with an update policy and wetlands conservation strategic plan. Another area of concerns is the lack of progress in finalising wetland buffer guidelines. Draft State wetland buffer planning guidelines were developed by the Wetlands Coordinating Committee in 2006 to assist maintaining and protecting wetland values from current and future threats, such as clearing and adjacent land

³⁵ See https://www.dpaw.wa.gov.au/images/documents/about/policy/wetlandspolicy_text.pdf

³⁶ See Parliamentary question (Question on Notice 2550, 15 October 2019) asked by Hon Diane Evers, and reply from Mr Stephen Dawson, Minister for Environment.
https://www.parliament.wa.gov.au/parliament/pquest_nsf/viewLAPQuestByDate/9DDBF55570F997444825849400224CC1?opendocument

uses. These have languished unapproved at a ministerial level, and need to be finalised

Recommendation

- That State wetland buffer guidelines are finalised, established, and prescribed in regulations and made legally binding

7.1.3 *Wetlands monitoring*

The South West Wetlands Monitoring Programme that commenced in 1977, and covered 105 wetlands, with the objective to determine long-term (multi-decadal) trends in wetland hydrology and water quality to provide an early warning of deleterious change and a sound basis for corrective action was ceased by DBCA in late 2018.

This has come about at a time when monitoring and evaluation is needed more than ever to predict and help plan and manage impacts from climate change, altered hydrology and other threats. It reflects a disengagement from sound adaptive resource management and planning.

Recommendation

- Re-establishment of the South West Wetlands Monitoring Program.

7.2 *Geomorphic datasets*

There are around 12 geomorphic database that used to classify wetlands in terms of conservation significance and are used in planning and assessment of clearing and environmental impact assessments. The management category of 'conservation' (highset priority wetlands) is regarded as an ESA, but there are lower order wetlands, i.e. 'resource enhanced' category, that would meet the criteria of a conservation wetland.

These datasets require consolidating, and wetlands assessed/re-assessed especially under the resource enhanced category.

Recommendations

- Consolidate geomorphic datasets, and provide public access.
- Systematic (re)assessment of wetlands to determine management category, and make changes to increase protection status.

7.3 *A report card on the condition of WA wetlands*

An overall assessment of wetlands in WA is needed to determine changes in condition and effectiveness of management. Currently, there is a lack of information and knowledge about overall trends and pressures acting on wetlands.

Recommendation

- A five-yearly wetlands record card is established to determine state/condition and management effectiveness, under the auspices of the Wetlands Coordinating Committee.

7.4 *Ramsar sites and nationally important wetlands*

Western Australia has 12 Ramsar sites – internationally important wetlands. The last sites were declared in 2001, but the majority were declared in 1990. There is a need for the Western Australia government to nominate additional wetlands to the Australian Government for listing via the Ramsar Bureau to protect a number of high value wetlands that would meet Ramsar criteria.

In 1998, there was a desk-top assessment published that identified 38 wetlands that would meet Ramsar criteria in Western Australia.³⁷ However since that time, criteria for listing have been expanded and 12 wetlands from that list have been declared as Ramsar sites. Nevertheless, there are at least 10-15 wetlands that would currently quality.

Similarly, the government needs to nominate additional wetlands to the Directory of Important Wetlands in Australia.

A limiting factor for management of high conservation wetlands in Western Australia is the lack of specific recognition under statutes, i.e. head powers under the BC Act and CALM Act.

While there are powers and responsibilities given to the CEO of the CALM Act, under s.33, for conservation management and science, these are very broad for the most part. There is also a lack of duty and responsibility placed on the minister of the Act.

Recommendation

- That a desk-top assessment of wetlands is undertaken to provide information and a list of wetlands that would meet Ramsar nomination criteria.
- That the WA government nominate further 10-15 wetlands to the Australian Government for listing on Directory of Important Wetlands in Australia.
- That further nominations of wetlands to the Directory of Important Wetlands in Australia are undertaken.
- Additional provisions are provided in the *Biodiversity Conservation Act 2016* to protect wetlands, including nationally-listed and Ramsar wetlands;
- Additional provisions are provided under the *Conservation and Land Management Act 1984* for the management of wetlands, particularly Ramsar sites.

³⁷ Jaensch, R. and Watkins, D. 1998. Wetlands International-Oceania. Nominations of additional wetlands in Western Australia. Department of Conservation and Land Management. 504.456(941)JAE.

8. THE FORMAL CONSERVATION RESERVE SYSTEM

8.1 *Management of the conservation reserve system*

Conserving native vegetation in situ and protecting it under statute in perpetuity is considered the cornerstone strategy vital for the survival of WA's unique biodiversity and associated cultural values. The formal conservation reserve system stands as WA's commitment to future generations by securing long-term protection of representative and adequate samples of all ecosystems in the face of a changing climate and other major threatening processes.

This strategy, however, requires complementary landscape-scale off-reserve initiatives and measures (some of which are outlined in other parts of this submission). It also requires adequate, and adequately funded, conservation-based management of the conservation reserve system.

While much of the needed reforms towards improving native vegetation are focused on controlling clearing (loss of habitat) under the EP Act, there is equal need to reform other legislation and government programmes aimed at managing vegetation to determine whether they are effective and ensure they are doing what they are expected to do. One such area is the State's conservation reserve system and other lands managed by DBCA.

8.1.1 *State's formal conservation reserve system*

Lands managed by the Department of Biodiversity, Conservation and Attractions (DBCA), on behalf of the people of Western Australia, with the primary goal of biodiversity conservation cover approximately 10% of the State's land area or 25.3 million hectares³⁸. DBCA is the largest land manager in WA. It spends an estimated \$1 billion of public funds over a three-year period, most of which is aimed at reserve management and biodiversity conservation.

In comparison, the combined area of private lands and pastoral leases purchased for conservation and managed by private conservation organisations is around 1.03 million hectares. These areas are not formally reserved.

8.1.2 *Outcome-based reporting and accountability*

Despite the enormous responsibility of managing the Western Australia's network of public terrestrial reserves, DBCA has never produced an outcome-based report similar to State of the Parks reporting in NSW, Victoria and Tasmania. In other words, the department has never demonstrated overall management effectiveness and value for money. This is viewed as a major impediment in knowing whether retention, recovery

³⁸ This figure excludes about 1.2 m hectares of State forest and timber reserves (These do not meet the minimum standards of the National Reserve System and aren't managed with the primary purpose of biodiversity conservation) but it does include 6,541, 607 of former pastoral leases that were purchased for conservation but are yet to be reserved under the CALM Act. See Table 10 on pp97-98 of DBCA's 2018-19 Annual Report. https://www.dbca.wa.gov.au/sites/default/files/2019-09/DBCA%20Annual%20Report%202018-19_FINAL.pdf

or gains in the extent and condition of native vegetation is being achieved, and whether publicly-funded programmes are making a difference.

Recommendation

- That five-year outcome-based assessments (“State of the Parks reporting”) for the DBCA-managed terrestrial estate are mandated, and resultant reports align with the IUCN protected area management effectiveness framework similar to the state of the parks report cards published by other Australian jurisdictions.

This would help provide information to determine where investment is best placed, whether priorities are being implemented, improve accountability and public confidence. Above all, it would demonstrate whether management is effective or otherwise.

8.1.3 *State conservation reserve system strategic plan*

The State government has no overall strategic plan that sets ecological targets or timelines for the marine and terrestrial conservation reserve systems to meet national targets and standards.

On 20 February 2019, the Premier and Minister for Environment announced Plan for Our Parks. They claim it will increase the “conservation estate” (marine and terrestrial) by 20 per cent in area over the next five years, but it won’t increase the formal conservation reserve system in area by that amount because there are a number of proposals that do not meet the minimum standards of the National Reserve System, i.e. regional parks. Moreover, there will be remaining gaps of representativeness, adequacy and comprehensiveness; even if the Plan for Our Parks is delivered in full.

Plan for Our Parks was released with no supporting analysis of reservation and how it would achieve national targets.

Under the plan, it is proposed to create two regional parks. While regional parks have their place in broader landscape management, and can perform a critical role, these do meet the minimum standards of the National Reserve System.

Plan for our Parks is mainly based on reserving previously purchased pastoral leases under the Gascoyne-Murchison Strategy between 1998 to 2004. The plan proposes about 32 former lease purchases will be reserved.³⁹ However, not all leases purchased for conservation under the Gascoyne-Murchison Strategy are covered. There are an estimated 15 whole/part former pastoral leases missing, and these mainly remain as unallocated Crown land.

The plan also omits outstanding Bush Forever sites needing to be reserved or placed under a management covenant in perpetuity on the Swan Coastal Plain.

Pending their reservation under the *Land Administration Act 1997*, and allocation of tenure under the *Conservation and Land Management Act 1984*, the former pastoral

³⁹ <https://www.mediastatements.wa.gov.au/Pages/McGowan/2019/02/McGowan-Government-unveils-visionary-conservation-plan.aspx>

leases are being managed under a Memorandum of Understanding between DBCA and the former Department for Planning and Infrastructure (now the Department Planning, Lands Heritage).

8.1.4 *Gaps in the conservation reserve system*

The government doesn't have a strategic plan for the conservation reserve system in Western Australia – both for formal reserves under the CALM Act or complementary reserves that meet minimum national standards. In 2009, the State endorsed the Strategy for Australia's National Reserve System 2009-2030 (NRS). In that strategy, there was commitment that the State would develop a five-year plan to implement the national strategy. This has yet to occur.

The NRS strategy states a number of targets for comprehensiveness and representativeness. In regard to comprehensiveness, the NRS strategy states:

“That by 2015:

Include examples of at least 80 per cent of the number of regional ecosystems in each IBRA region.

Priority will be given to under-represented IBRA bioregions with less than 10 per cent protected in the National Reserve System.

In regard to representativeness, the NRS strategy states that by 2025 it will include examples of at least 80 per cent of the number of regional ecosystems in each IBRA subregion.

The last time the State government published an analysis on the status of the formal terrestrial conservation reserve system was in 2004 (see Figure 4 of the Discussion paper: Towards a biodiversity strategy for Western Australia, page 39). However, this was at subregional level and not according to regional ecosystems or native vegetation types. While there have been some further areas formally protected under the *Conservation and Land Management Act 1984* since this publication, overall the reservation status at a bioregional regional level has remained largely unchanged.

While the Plan for our Parks - if fully implemented - will improve coverage of reserves, in most cases, this still not achieve full representation, even in those subregions which are currently under represented.

The Convention on Biodiversity sets a protection target of 17 per cent of land ecosystems. If this is applied at bioregion scale - based on data in the Collaborative Australian Protected Area Database administered by the Australian Government - 23 of 57 (40%) IBRA subregions have less than 17% reservation at this scale and are thereby considered under represented. At an IBRA bioregion level, 14 of 26 (53%) bioregions are under presented.⁴⁰ Note that this includes both formal and non-statutory reserves.

⁴⁰ <https://www.environment.gov.au/land/nrs/science/capad/2018>

Recommendation

- That the State develop a 10-year protected area strategic plan that identifies gaps, provides targets and timelines, and implement that plan to complement Plan for Our Parks.

This should include all outstanding Bush Forever sites, and pastoral leases purchased for conservation.

8.2 *Plans for the conservation reserve system*

There are around 1,800 conservation reserves in WA (national parks, nature reserves, conservation parks, and other lands under the CALM Act managed with the primary purpose for biodiversity). This excludes State forests, timber reserves and regional parks, which do not meet the IUCN protected area categories of I-VI⁴¹. Many lack area plans.

While there have been steps in recent years to increase the number of area plans by releasing regional/subregional plans covering multiple reserves, the majority of reserves are without plans. Many have never had plans since they were proclaimed and are loosely managed in the line with the intent of the CALM Act, but often they are managed by benign neglect.

Recent area plans that cover multiple reserves, e.g. Swan Coastal Plain South Management Plan 2016, often lack specificity and point to other planning instruments that are either lacking or require updating.

Recommendations

- All CALM Act reserves must have an area plan within five years of reservation (gazettal), in which native vegetation management outcomes and activities to meet these goals are stated along with outcome-based performance indicators.
- The backlog of reserves needing plans must be considered a priority by government, and by 2025 all existing reserves must have area plans.
- Alternative management arrangements should be investigated to assist the State deliver native vegetation and biodiversity management outcomes from the formal conservation reserve system.

Currently, the scale and complexity of the reserve system is clearly too much for one government agency. Additional management arrangements might include leasing or contracting third parties, such as private nature conservation organisations to manage reserves, or by entering into joint management arrangements – Aboriginal or non-Aboriginal - outside of where native title does not exist.

⁴¹ <https://www.iucn.org/theme/protected-areas/about/protected-area-categories>

9. PASTORAL LANDS AND NATIVE VEGETATION MANAGEMENT

The rangelands in WA cover about 87% or 220 million hectares of WA's land mass. Within this area, pastoral lands comprise about 86.5 million hectares or 34.4% of WA (approximately 39% of the rangelands) and are subject to mostly livestock production through grazing of native vegetation.

Using data collected between 2002-2009, the Report Card on Sustainable Natural Resource Use in the Rangelands of Western Australia, published by the then Department of Agriculture and Food in 2017 found that 16% of the Kimberley region, 12% of the Pilbara region, 29% of the Upper Southern Rangelands, and 22% of the Lower Southern Rangelands was in poor condition.⁴² This represents a sizeable proportion of WA that requires active management to restore native vegetation condition and productive values.

According to Brandis in 2008, pastoral lease condition surveys showed a considerable impact on about 20 million hectares (24% of the area surveyed) and are now classed as being in poor condition.⁴³

Almost a decade later in October 2017, the WA AG reported that the State did not have good knowledge of lease level condition due to a reduction in the scope of monitoring since 2009 to less than 3% of leases.⁴⁴ Because of this, the report concluded “...*the State is unaware of the extent of environmental problems within the pastoral estate, and lacks the necessary information to inform land management decisions.*” p.15

It also concluded: *The PLB [Pastoral Lands Board] does not have policies and procedures to guide the long-term environmental, economic and social management of pastoral lands, including no policies to guide rehabilitation of degraded lands.* p.9

It illustrates another point about lack of reporting from resource condition monitoring - often collected for a different purpose or scale - and time lag or slow-footed responses between policy reforms and action. It has been known for decades that native vegetation (and soil) is in decline in WA's pastoral rangelands.

⁴² See Rangelands Report Card at https://www.agric.wa.gov.au/rangelands/report-card-sustainable-natural-resource-use-rangelands-western-australia?page=0%2C0#smartpaging_toc_p0_s0_h2

⁴³ Brandis, T. 2008. *Rescuing the Rangelands: Management strategies for restoration and conservation of the natural heritage of the Western Australian rangelands after 150 years of pastoralism.* WA Department of Environment and Conservation.

⁴⁴ Western Australia Auditor General. 2017. *Management of Pastoral Lands in Western Australia.*

Pastoral lands degradation and need for reforms has generated some recent media interest.⁴⁵

The AG's findings have recently prompted the WA government to announce pastoral lands reform, with a *"package of legislative, regulatory and administrative measures that focus on improving the land condition of the pastoral estate, fostering best-practice land management, and encouraging development and diversification"*.⁴⁶ This is welcomed, but many details about these reforms are lacking at this stage.

Recommendations

- That a pastoral lease restructuring and reforms are undertaken including:
 - lease buy-back and destocking scheme.
 - major overhaul of the Pastoral Lands Board functions and membership.
 - incentives for native vegetation management (agreements, covenants, grants, education etc).
 - statutory requirement for accredited property-level management plans to be prepared for retention, protection and restoration of native vegetation.
- Establishment of a major Land Restoration Fund to encourage uptake of human-induced native revegetation and locally native biodiverse carbon sequestration to generate Australian Carbon Credit Units under the Emissions Reduction Fund (this should also be extended to public and private conservation reserves in the rangelands).
- Investment in new methodologies for the arid zone under the Emissions Reduction Fund, e.g. fire management, feral animal control.
- Re-establishment of pastoral lands vegetation condition monitoring, and periodic reporting.

10. URBAN CONSERVATION

Given the ongoing expansion of built environments and urbanisation, including a growing population, urban native vegetation requires special mention. A range of pressures have contributed to the decline and loss of biodiversity and high fragmentation in native vegetation. This is increasing at an alarming rate. At the same time, especially in recent years, there has been lack of focus on conservation and management within these environments.

⁴⁵ Death by a thousand cuts: the industry doing more damage than mining
<https://www.smh.com.au/environment/sustainability/death-by-a-thousand-cuts-the-industry-doing-more-damage-than-mining-20200123-p53u6b.html>

⁴⁶ <http://www.drd.wa.gov.au/projects/PLR/Pages/default.aspx>

Initiatives, such as Perth's Bush Forever have failed to be implemented in full. It is understood that \$450m remains in the Metropolitan Regional Improvement Trust Fund under the control of the WA Planning Commission that could be used to purchase and manage Bush Forever sites.

State funding to encourage native vegetation and for education have been withdrawn, for example Urban Landcare.

Some local government authorities have developed biodiversity conservation plans, which are then binding on town planning schemes, but these initiatives need to be expanded across entire local government areas.

Regional parks have been a successful model that provides biodiversity conservation and public recreation through a multi-agency and tenure approach. This should be expanded.

The current scale of response in urban areas does not match the scale of problem to address.

Recommendations

- Transfer all remaining Bush Forever site into the conservation reserve system or under nature conservation covenant to be managed in perpetuity.
- Restore funding for Urban Landcare.
- Invest in Urban native vegetation education and support re-establishment of vegetation.
- Require and provide incentives for local government to complete biodiversity conservation plans that are binding under town planning schemes.
- Expand the regional parks system to include Mandurah, Bunbury and Geraldton.

11. MARINE ENVIRONMENT

The marine environment is often overlooked when discussing the topic of native vegetation. However, WA has extraordinary marine biodiversity, including high plant species richness and endemism, and significant vegetation recognised nationally and internationally.

Over a 1,000 species of marine plants have been recorded off the WA coast.⁴⁷ WA marine waters contains one of the international tropical marine hotspots stretching approximately between Exmouth to Perth, and one of the largest and most diverse seagrass meadows found in the world at Shark Bay. The Dampier Archipelago is the richest area of marine biodiversity known in Western Australia and is comparable to that of Great Barrier Reef. Mangrove communities stretch from Kimberley waters to Bunbury, and large kelp beds are found along the west and south coast.

It has been reported that some of these values have been significantly impacted by climate change in recent years, with significant reduction in extent and health.

⁴⁷ See Marine Plants of Western Australia at DBCA's FloraBase <https://florabase.dpaw.wa.gov.au/marineplants/>

Extensive losses of seagrass meadows have occurred at Shark Bay and of kelp beds along the west and south coast.^{48 49}

The marine conservation reserve system supports climate change adaptation and mitigation, and is the key strategy to achieve in situ biodiversity conservation. In 1998 the Western Australia government, along with the Commonwealth and other Australian States, committed to establishing a National Representative System of Marine Protected Areas by 2012.

Western Australia is also a signatory to Australia's 1992 Intergovernmental Agreement on the Environment, which states under Schedule 9 - Nature Conservation - Clause 13: *"The parties agree that a representative system of protected areas encompassing terrestrial, freshwater, estuarine and marine environments is a significant component in maintaining ecological processes and systems"*.

11.1 Marine conservation reserve system

Creation of the marine reserve system in WA is currently ad hoc. Proposals for marine reserves intermittently come about through political party pre-election commitments. Establishment of marine reserves has been ongoing for 33 years since the first marine reserve was created in 1987 – Marmion Marine Park.

There is no State strategic plan that sets timelines or ecological targets, and an absence of an overall bioregional approach adhering to conservation principles and criteria. Consequently, there are major gaps in the representativeness and comprehensiveness of the system achieving biodiversity protection, and inadequate habitat protection.

This didn't go unnoticed by the WA Auditor General in 2016 who reported on the management of marine parks and reserves and found that the network of WA marine protected areas *"is not yet comprehensive, adequate or representative"*, and that six bioregions did not have reserves and no timeline exists to establish reserves in these bioregions.⁵⁰

The Plan for Our Parks 2019-2024 will not improve overall comprehensiveness of the current marine reserve system, as it has avoided these bioregional gaps.

The Government's Plan for Our Parks has only committed to new marine reserves in the Buccaneer Archipelago and in waters near the Perth metropolitan area by 2024. The Recherche Archipelago and Stokes Inlet are being investigated for reservation, but no formal commitment has been made. Other candidate and priority areas have been ignored under the plan.

⁴⁸ <https://ecos.csiro.au/kelp-forests-hot-water/>

⁴⁹ <http://theconversation.com/climate-change-threatens-western-australias-iconic-shark-bay-32428>

⁵⁰

[https://www.parliament.wa.gov.au/publications/tailedpapers.nsf/displaypaper/3914308a5e295caa254cbbe348257fe2000adf56/\\$file/4308.pdf](https://www.parliament.wa.gov.au/publications/tailedpapers.nsf/displaypaper/3914308a5e295caa254cbbe348257fe2000adf56/$file/4308.pdf)

11.2 *Priorities for reservation*

Major priority areas that should be considered as marine reserve proposals not included in the Plan for our Parks are:

- Dampier Archipelago;
- Near shore Pilbara coastline;
- Exmouth Gulf;
- Houtman Abrolhos Archipelago;
- Majority of waters east of Cape Leeuwen on the south coasting including waters off Fitzgerald National Park, Stokes Inlet and the Recherche Archipelago.

As noted below, there are also major problems with the configuration and composition of the existing marine reserve system.

Recommendations

- Produce a marine conservation reserve system strategic plan with targets and timelines to complete a fully representative, adequate and comprehensive system that protects biodiversity, and periodically report progress towards meeting these criteria every three years.
- Complete reservations to fill major priority gaps, including Dampier Archipelago, nearshore Pilbara waters, Exmouth Gulf, Houtman Abrolhos waters, waters east of Cape Leeuwen on the south coast.
- Develop an implementation plan for reservation of marine conservation reserves.

11.3 *Need for a new marine policy*

The Government's marine protected area policy – New Horizons - that guides establishment of the marine conservation reserve system was last updated in 1998. This policy is now out of date.

Recommendation

- Update and modernise the New Horizons policy to ensure it is contemporary standards for reserve design and management.

11.4 *Reserve boundaries and sanctuary zone network needed*

While the current marine system covers approximately 4.7 million hectares or 37% of State waters (12.6 million hectares), the majority of marine parks are multiple use areas; effectively making them similar to State forests. In marine parks, a range of extractive industries can occur such as commercial fishing, aquaculture, mining and oil and gas production; but some parts are zoned as no-take areas or sanctuary zones and given a high level of protection.

The total area of sanctuary zones is approximately 942,000 hectares or 7.48% of State waters and about 20 per cent of total area of marine parks.⁵¹

Reserve design and configuration of the marine reserve system, i.e. placement of reserves, size and composition of the sanctuary zone network within, is far less than optimal to achieve effective biodiversity protection and management. There are boundary issues where key values have been omitted, and it is questionable whether current sanctuary zones (size and shape) are effective at protecting biodiversity. Moreover, the overall network of sanctuary zones is not fully representative of biodiversity values.

Many sanctuary zones in marine parks are small, fragmented and do not cover the full suite of habitat types. Previous MPRA assessments have highlighted that sanctuary zones are too small. Also, marine parks, such as the Yawuru Nagulagun/Roebuck Bay Marine Park which contains internationally recognised biodiversity values and partly covers a Ramsar site, North Lalang-garram Marine Park and Walpole Nornalup Marine Park do not have any sanctuary zones.⁵²

The level of sanctuary zones within the current WA marine conservation reserve system remains far from the Sydney 2014 IUCN World Parks Congress recommended target of at least 30% no-take areas:

Recommendation 1. Urgently increase the ocean area that is effectively and equitably managed in ecologically representative and well-connected systems of MPAs [marine protected areas] or other effective conservation measures. This network should target protection of both biodiversity and ecosystem services and should include at least 30% of each marine habitat. The ultimate aim is to create a fully sustainable ocean, at least 30% of which has no extractive activities.⁵³

It should be pointed out that the 30 per cent no-take target at Sydney was a comprise from the 50 per cent, or “Nature Needs Half”, recommended by many conservation organisations.

Commitments to review marine park plans and their zoning schemes after reservation frequently never happens. For example, the five-year review of Lalang-garram/Camden Sound Marine Park 2013-23 is yet to occur.⁵⁴

⁵¹ Refer to area figures in management plans for marine reserves

⁵² See page 82 of plan https://www.dpaw.wa.gov.au/images/documents/parks/management-plans/ynrbmp_management_plan_web.pdf

⁵³ <https://mpanews.openchannels.org/news/mpa-news/world-parks-congress-recommends-target-30-no-take-mpa-coverage-worldwide>

⁵⁴ See page xi of plan that states a five-year review of it would be conducted, i.e. in 2018 , including of the zoning scheme https://www.dpaw.wa.gov.au/images/documents/parks/management-plans/20120451_Lalang-garram_Camden_Sound_Marine_Park_MP_2013-2023_WEB.pdf

Recommendation

- Undertake an investigation into the configuration of marine reserves and effectiveness of sanctuary zones, with the aim of improving reserve boundaries and internal zoning to improve biodiversity protection.
- Complete outstanding reviews of marine management plans, including zoning schemes, such as Camden Sound.
- Adopt a policy of 30% protection of each habitat as no-take areas.

11.5 *Plans for marine reserves*

There are 20 marine reserves under the CALM Act in WA waters – 17 marine parks, two marine management areas (multiple use areas) and one marine nature reserve – covering an area of approximately 4.7 million hectares. Fifteen 10-year area management plans cover those reserves, of which nine are out of date and have expired. Of the remaining six current plans, three will expire in the next two to three years.⁵⁵

Three marine management plans expired over 11 years ago: Marmion Marine Park in 2002, Shark Bay Marine Park/Hamelin Pool Marine Nature Reserve in 2006, Swan Estuary Marine Park in 2009.

There is an urgent need to update and provide new area management plans.

Recommendation

- Update and replace all out of date 10-year marine reserve management plans.

11.6 *Lack of public reporting on outcome performance*

The former Marine parks and Reserves Authority used to undertake regular performance assessments of marine reserves – annual, periodic (every five years) and 10-year assessments. It is understood that these assessments have subsided under the new Conservation and Parks Commission of WA in recent years. However, reports have never been publicly available under either organisation or by DBCA.

Recommendation

- Make publicly available condition and performance assessment reports for (1) the overall marine conservation reserve system, and (2) for each marine reserve.

⁵⁵ See list of approved plans and dates at <https://www.dpaw.wa.gov.au/parks/management-plans/approved-management-plans>

12. INCENTIVES TO PROTECT AND MANAGE NATIVE VEGETATION

It is widely recognised that there are a broad range of mechanisms and incentives used to protect and manage native vegetation, including financial instruments (grants, levies, rate rebates, tax concessions etc), covenants, education and regulatory instruments. A mix of incentives are needed. Some of these are discussed in this submission and recommendations made. It is clear, however, that current levels of investment by both State and local governments, organisations and individuals to protect and manage native vegetation are inadequate.

An area that needs greater attention is the need for governments to raise funds that are used to conserve (through acquisition of land and reservation) and management to improve vegetation health and connectivity.

Levies are used widely in Australia for a broad range of industries and activities. For example, the Commonwealth Department of Agriculture collects and disburses agricultural levies to assist in responding to emerging trends and challenges affecting the primary industry sector. Currently, there are around 12 primary industries that pay levies. In 2017-18, the department disbursed over \$800m to 18 recipient bodies.

In WA, there is the Emergency Services Levy. This funds operating costs, capital equipment and training for State agencies, local government and volunteers.

The State's waste levy acts as an economic instrument to reduce waste to landfill and funds for a range of waste and environmental purposes.

Other jurisdictions have introduced a special local government levy for conservation, such as the Noosa Shire Council:

The purpose of the Environment Levy is to raise funds to conserve and/or improve biodiversity in the Noosa Shire. It provides an important funding source for a range of strategic environmental management initiatives across the region.

Key aims of the Levy are to:

- Protect environmentally significant areas through land acquisition.
- Support Council's Voluntary Conservation Agreement Program where such involvement adds to the protection and enhancement of biodiversity and wildlife corridors on private rural properties throughout the Shire.
- Provide funding to the Noosa Biosphere Reserve Trust so that Noosa Biosphere Reserve Foundation Ltd may undertake projects that are in keeping with the purpose of the Levy.⁵⁶

⁵⁶ <https://www.noosa.qld.gov.au/environment-waste/environment/environment-levy/environment-levy-land-acquisitions>

Noosa Shire Council covers an area of approximately covers 870 square kilometres. As of July 2019, the Environment Levy has been used to purchase 33 land parcels comprising a total of 1555 ha set aside for environmental conservation.

In recognition of the role and value that native vegetation plays in providing ecosystem services to all Western Australians, and the critical need to reverse decline and improve management, the government needs to establish and encourage the uptake of a comprehensive range of incentives.

Recommendations

- That the government develop and implement a comprehensive incentives package, which presents a range of options including, but not limited to:
 - Conservation levies – both at a State and local government level;
 - A major Land restoration fund aimed at carbon farming and broadscale restoration;
 - Local government incentives to undertake biodiversity conservation planning and conservation levies;
 - Biodiversity banking;
 - A stewardship program to financially reward and support landholders to undertake native vegetation management and
 - Development of accredited Property-level management plans for retention and protection of native vegetation.
- That the government develop and provide financial or other incentives to encourage private entities, including organisations and individuals to conserve/revegetate/restore biodiversity.
- That the government develop and provide financial or other means to compensate private entities for conserving high value native vegetation on their land that they might otherwise clear. This could include direct financial assistance, reduced rates or outright purchase.

13. NATURAL RESOURCE MANAGEMENT GOVERNANCE

Good governance is critical to set strategic direction, coordinate actions, ensure integration, efficient use of resources, and ensure accountability in using these resources. In short, it is needed for effectively managing complex issues, such as native vegetation management.

There is currently a lack of State level governance across and within natural resource management in Western Australia. In the last decade, this has contributed to a greater siloing and fragmentation of responses leading ultimately to ineffective management on many issues –examples include salinity management and wetlands conservation. It has also allowed a reduction in management and research capacity by stealth within government agencies.

To a degree, this was recognised in the March 2019 review of salinity management by GHD for the Department of Primary Industries and Regional Development that suggested re-establishment of the Soil and land Conservation Council to provide a

coordination function and advisory role to government⁵⁷; but recommendations from this review didn't go far enough. There is also a need for greater leadership at a ministerial level across the breadth of natural resource management issues as well as to formally involve a range of stakeholders.

As noted in section 7.1.1, the ministerially-appointed Wetlands Coordinating Committee has been prevented from performing its role since 2013. The WA Natural Resource Management Council that was established in 2003, comprising agency and community representatives, was terminated in 2009.

The Roadside Conservation Committee, a Minister for Environment-appointed committee including committee, local government, conservation and utility representatives, which sought to provide advice and recommendations on environmentally-sound roadside vegetation management, is also now dysfunctional, and its future is unclear. The committee is chaired and administered by DBCA.

Hence, there is now a governance void, and as well as limited community engagement at a whole of State level for natural resource management generally.

Recommendations

That the government:

- (re)establish a standing council on natural resource management comprising relevant ministers to provide oversight, integration and direction;
- (re)establish a supporting agency-community natural resource management council to provide coordination and strategic advice to government; and
- The Roadside Conservation Committee is revamped, or replaced with another committee with the same functions and responsibilities, with staffed, adequately-funded, independently-chaired committee of road management agencies (including Main Roads WA and local governments) and community representatives to provide strategic advice and guidance to State and local governments and road management agencies.

It is further recommended that the supporting council consists of both government agency and non-government members; and that it has a responsibility to inquire and report on any relevant matter with a view to bring about effective management and better targeting of resources.

⁵⁷

<https://www.agric.wa.gov.au/sites/gateway/files/A%20New%20Direction%20for%20Salinity%20Management%20in%20Western%20Australia%20-%20A%20Consultative%20Review%201.pdf>