



# Casuarina Wellard Progress Association<sup>(inc)</sup>

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Native Vegetation Strategy  
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**Native Vegetation in Western Australia: Issues paper for public consultation**  
November 2019

The Casuarina Wellard Progress Association Inc. (CWPA) welcomes the opportunity to respond to the Department of Water and Environmental Regulations (DWER) Native Vegetation in Western Australia Issues Paper (Issues Paper). We would welcome an opportunity to further discuss with you in person the issues in our submission.

In making this submission the CWPA notes that other environmental legislation is currently under review including, *The Environmental Protection Act 1986*, and *the Federal Environmental Protection and Biodiversity Conservation Act 1999*. The review of this legislation has implications for the management of native vegetation in Western Australia and as such should be considered as part of the discussion of the Native Vegetation in Western Australia Issues Paper.

Additionally, the CWPA also notes that the Issues Paper does not consider how this proposal relates to the Department of Premier and Cabinet's review of the draft *Green Growth Plan, 2018*. As both proposals have significant implication for native vegetation in Western Australia, clarity is sought as to how these proposals will interact.

This submission from the CWPA covers some background information and then details support, issues and concerns in relation to the Native Vegetation Issues Paper.

For clarification on any matters in this submission, please contact the CWPA's President Stephen Sturgeon on [REDACTED] or by email: [info@CWPA.org.au](mailto:info@CWPA.org.au)

## Background

The CWPA represents residents and landowners in an area east of the Kwinana freeway from Thomas Road in the north to Millar road in the south and King Road to the East. Many of our members live on Rural and Special Rural properties. The zoning of the Special Rural properties requires owners and occupiers to preserve and protect the native flora and fauna on those properties and prevent the clearing of native vegetation. The reason most people purchase these types of property is they have a love and respect for our native bush and want to do their utmost to preserve what little is left. There have been many attempts by developers and miners to clear some of the best native bush left on the Swan Coastal Plain, that is situated in our area. For this reason, the CWPA has found it necessary to do all in its power to protect our native bush.

## Local case history (Highlights grave failings of the current system)

### Site 1

Lots 53 and 1320, Banksia Road, Wellard

This site is subject to an application by [REDACTED] for the clearing of 16.25 hectares of Very Good to Excellent condition (Keighery, 2004) Banksia Woodland at Lots 53 and 1320 Banksia Road, Wellard, in the City of Kwinana for the purpose of sand mining.

- Located in the City of Kwinana on Crown land
- State clearing permit granted by DMIRS

### Site 2

Lots 300 and 301 Boomerang Road and Lot 6, Banksia Road, Oldbury

This site is subject to an application by [REDACTED] for the clearing of 11.6 hectares of Good to Excellent condition Banksia Woodland at Lots 300 and 301 Boomerang Road and Lot 6, Banksia Road, Oldbury for the purpose of sand mining.

- Located in The Shire of Serpentine Jarrahdale on private land
- State clearing permit granted by DWER

### Facts

Whilst these two sites are in different Local Government areas, they are only separated by a single road (Banksia Road)

- Site 1
  - Clearing permit decision by DMIRS failed to take into account close proximity of Wellard01 (Organic Tumulus Mound Spring TEC)
  - Clearing permit decision by DMIRS failed to take into account cumulative impact of site 2
  - Clearing permit decision by DMIRS failed to take into account the conservation covenant being placed on an 'ecological corridor' on site 2 connecting to lot 53 of site 1
- Site 2
  - Clearing permit was conditional on a conservation covenant being placed on an 'ecological corridor' connecting the wetlands and remaining Banksia woodlands of the site to the Existing banksia woodlands of Lot 53 Banksia Road (site 1)
  - Clearing permit decision by DWER failed to take into account the fact that the proponent had successfully applied for a clearing permit to clear lot 53 Banksia Road (site1)
  - Clearing permit decision by DWER failed to take into account close proximity of Wellard01 (Organic Tumulus Mound Spring TEC)

The above local case history highlights the need for wide reaching changes to the whole process of granting clearing permits. These permits were granted in the face of strong opposition from Local Government, the local community and without any interaction or cooperation between DWER and DMIRS. This case alone illustrates the total failure of the existing way in which Clearing permits are granted.

## Native Vegetation in Western Australia: Issues paper for public consultation

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### Purpose of this issues paper (page VI)

*Native vegetation reform will be a long-term journey. Shaping and implementing all four initiatives will take time, and other initiatives will be needed to ensure the State's native vegetation is maintained for future generations.*

The loss of Native vegetation is already at a critical stage a short, fixed timeline is what is needed. If this cannot be achieved, then a moratorium must be placed on clearing Native vegetation (particularly that of the Swan Coastal Plain)

### Consultation timeline (page VI1)

*This issues paper supports the first of several opportunities to engage in the development and delivery of the four initiatives. The public consultation period for the issues paper opens for 12 weeks from November 2019. We expect to release a draft policy in April 2020 for four weeks' public consultation. We aim to deliver a policy for the Government's consideration by mid-2020.*

The 12-week public consultation period was split by the major Christmas New Year holiday period, thus diminishing opportunities to attend workshops and give the issues paper adequate consideration. 4-weeks for the public consultation period is totally inadequate. It is planned for April and again the Easter Holidays will split the period, again reducing effective time and opportunity for public consultation.

### Our valuable vegetation (page 1)

*Western Australia's native vegetation is internationally renowned for its biodiversity. We have eight of the nation's 15 and one of the world's 36 biodiversity hotspots. Our State boasts extraordinary floral diversity including more than 11,000 native plant species (Western Australian Herbarium*

*2019). **The botanical south-west province alone hosts more than 8,000 plant species, of which about half are found nowhere else (Gioia & Hopper 2017).***

This statement highlights the need for immediate changes or a moratorium on all clearing until acceptable changes are introduced.

### The challenge (page 2)

*Of the 18 million hectares of Western Australia's native vegetation already cleared, most is in the State's south-west (Figure 2) – coinciding with our most biodiverse ecosystems (Yeats et al. 2014). In some local government areas, more than 93 per cent of the original vegetation is lost (DBCA 2018), including clearing of up to 97 per cent of some woodland areas (Bradshaw 2012). This situation has led to the State's Environmental Protection Authority identifying clearing and degradation of native vegetation as a key threat to Western Australia's biodiversity (e.g. EPA 2017).*

The challenge is to halt this alarming loss of Native vegetation. The whole approach to considering a clearing permit application needs to change. No longer can responsibility for granting clearing permits be in the hands of agencies such as the DMIRS and Main Roads. All clearing permit applications should be under the direct control of EPA or DWER and the mindset should be clearing will not be permitted unless a compelling case is tabled as opposed to the current mindset where a permit will be granted when offsets have been promised and some minor conditions have been imposed.

### Box 1: Ecosystem services and costs incurred when they are lost (page 3)

*Addressing the impacts of clearing on remaining native vegetation in highly cleared landscapes adds further costs. Protecting and restoring vegetation also incurs*

*maintenance costs by whomever is the landholder – private or public. In 2015–16 the Western Australian Government allocated \$66 million for the broad task of **conserving habitat**, species and ecological communities (Auditor General 2017a). Both State and Australian governments have funded Landcare activities to about \$33 million for the past five years (WA Landcare Network 2017)*

The whole concept of 'offsets' must be rethought based on the costs involved with maintaining and restoring them. Granting an offset in an area remote to the site in question cannot be contemplated if we are to conserve habitat.

### **Striking the right balance (page 5)**

*Economic activity associated with land development has enabled and driven population expansion and has contributed to forming our contemporary society. Clearly, there is a lot at stake for the Western Australian community in striking the right balance between protecting native vegetation and a strong community and economic outlook. The Western Australian Government is committed to doing both, through finding solutions to protect our important natural assets strategically and transparently, while supporting sustainable solutions for development in our regions, towns and cities.*

The Issues Paper's emphasis is on economic factors. It is disappointing to note that the discussion is not focused equally on environmental sustainability and social factors. In planning for vibrant, sustainable communities, liveability and community expectations are very much evolving. This is evidenced by the recent community support for the conservation of native vegetation in the 'Roe 8 case'. The proposed policy for native vegetation in WA should give equal consideration to, and discussion of, all factors underpinning sustainable development and be a driver for legislative change that reflects contemporary views rather than an update and/or review of existing legislation. Our native vegetation can never be saved if there continues to be a drive for population expansion. Sustainable solutions require a population cap and a moving away from the current preferred option of urban sprawl developments on uncleared land that only benefits the developers.

### **Box 3: Frameworks for managing vegetation (page 6)**

*Native vegetation influences many aspects of Western Australian society, which means it is managed through the mechanisms of many different government departments, local authorities and community groups, each with a different approach and purpose. Some mechanisms are legislative controls, others regulate sustainable use, and still others establish systems that promote native vegetation improvement. More than 10 government departments and authorities play a role in managing activities that affect native vegetation, applying 16 Acts which have widely varying primary goals (see Table 1 on page 18). Western Australia is a signatory to Australia's Native Vegetation Framework (COAG 2012); however, as Western Australia does not have a single framework for native vegetation, the national goals have not been integrated into a single policy or approach.*

Clarity is sought as to how the proposed State vegetation policy will interact with the existing planning processes and frameworks. It is acknowledged that the current process for tracking the extent and location of native vegetation clearing is inadequate, but how does the Issues Paper propose to address this gap? For example, how will agencies, industry and the community be compelled to report clearing under exemptions, and to whom will this be reported to and recorded by?

### **Responding to the challenge (page 7)**

*Striking the right balance for native vegetation is a complex task that involves addressing competing objectives. The Western Australian Government acknowledges this challenge and is responding.*

*We have listened to the concerns expressed by various sectors involved in native vegetation about the consistency, transparency and evidence-base of government decisions affecting native vegetation.*

The proposed initiatives to manage native vegetation across all government processes are generally supported by the CWPA. However, we would like to draw your attention to the following opportunities to strengthen native vegetation management beyond what is proposed.

It would be beneficial if the Issues Paper provided a comprehensive assessment of the effectiveness, or lack thereof, of the current framework and outline a timeframe for native vegetation reform. The statement that reform will be “a long-term journey” is ambiguous and not conducive for engendering confidence in process reform. It is recommended that similar to other reform, i.e. the Public Health Act, that a five-year time frame be proposed with relevant stages outlined within the five years as key milestones to be achieved.

Further clarification around the proposed policy objectives is required, i.e. in regard to objective (a), what criteria will be used and how will this be transposed through relevant legislation to enable consistency and cross referencing to ensure ‘striking a balance between environmental, economic, social and cultural outcomes’? A clear and concise explanation is required in regard to the definition of ‘striking a balance’. We are at a point where we can no longer afford to condone any clearing of listed TECs.

#### **Four initiatives for improving vegetation management (page 8)**

##### **1. A State native vegetation policy**

##### **Box 5: Tracking the extent and location of clearing (page 10)**

*We need to improve Western Australia’s data systems to enable tracking of the extent or location of statutory approvals to clear or degrade native vegetation, and to monitor the actual clearing taking place.*

*We have kept consolidated spatial records of the clearing authorised under clearing permits since 2004, but this covers some 600,000 hectares or only 3 per cent of all historical clearing to date. The spatial data systems we have do not incorporate clearing approved under Part IV of the Environmental Protection Act 1986 or other pathways, such as subdivision approvals under the Planning and Development Act 2005. Exempt clearing, currently authorised under more than 40 provisions of the Environmental Protection Act 1986, is not systematically tracked in any way. Our existing map of native vegetation extent across the State (Western Australian Land Information Authority 2019) is widely used as a basis for government decisions but it is not systematically updated.*

*There are no statewide datasets of native vegetation condition*

It is strongly agreed and indeed urgent that WA’s data systems be improved to show the extent and location of clearing, and whether it is approved or unauthorised. This data must be publicly available. The total extent of vegetation and the net loss of vegetation cover in each region should be periodically shown. Also, the change in vegetation cover for the whole of WA needs to be monitored and reported annually as part of climate change policy and action.

##### **Box 6: Proposed policy objectives (page 12)**

*We are consulting on three proposed policy objectives. These objectives will not necessarily be in the policy, but your responses to them will help us to understand stakeholder perspectives across sectors as we draft the policy.*

- A. *The management of native vegetation is consistent, transparent and strategic and strikes a balance between environmental, economic, social and cultural outcomes to Western Australians.*



- A. This objective needs rewording. The word 'balance' is open to selective interpretation. Protection of the environment needs to be given much more emphasis. Protection must be the primary consideration. Once the complex natural environment is cleared it cannot be restored and cannot be offset.
- B. *Western Australia's native vegetation is strategically conserved and restored to maintain and improve ecological function and biodiversity at a landscape scale.*
- B. Strategic conservation is the key here, so it must be the primary objective.
- C. *Higher priority and strategic protection for unique and at-risk native vegetation, tailored to the regional setting.*
- D. Whilst we support this objective, there are very significant knowledge gaps which need to be addressed: The extent and distribution of rare species and communities is not known. Detailed survey and mapping is needed. More botanists are needed to do this work and the associated taxonomy. This will require significant additional funding.

## 2. Better information (page 15)

### Issues

This is well stated. We strongly agree that it is essential that there be data and mapping showing what is actually cleared each year, as well as authorised clearing, exempt clearing, and unlawful clearing.

### Expected benefits (page 15)

These benefits are supported. A consistent, robust, up-to-date single source of data is supported. Generous additional funding and expertise for government to provide this is essential.

### Possible approaches (page 15)

Supported. Land Monitor should be fully utilised and available to everyone.

## Box 8: Towards statewide, regularly updated native vegetation information (page 16)

It is vital that we have comprehensive, up to date information on what remains of native vegetation, its condition and how best to manage it. This information should be readily accessible to all sectors.

### Your thoughts (page 16)

#### ***How do you use native vegetation data in your sector?***

To plan for conservation

To plan for restoration

For baseline information for monitoring

#### ***Which of the following elements of better information provision would be most relevant to your sector?***

Evidence-base for decisions", to show clear, consistent and reliable decision making. For example the Threatened Status of Banksia Woodlands is difficult to predict and of concern with regards to its application. Giving regard to the established assessments thresholds, experience shows that multiple applications to clear Banksia Woodlands are routinely provided with Clearing Permits in contradiction to guidelines. There is currently very little certainty in the predictability of assessment outcomes in accordance with policy and guidelines

#### ***What other opportunities are presented by improved information and improved access to information?***

Integration of all the site-based vegetation and flora surveys by all parties into more detailed vegetation maps thus greatly improving the knowledge base.

Community conservation groups including scientists need access to this vegetation data in making submissions and in understanding the extent of vegetation in various regions. This much improved vegetation data is also obviously needed for planning and achieving conservation, restoration, and for monitoring so that a net increase in WA's vegetation cover can be achieved, along with securing no further losses of TEC's and habitats of endangered species.

Thus the following can be facilitated and achieved:

- Stop the vegetation losses in over-cleared regions of the Perth Peel region, South West biodiversity hotspot and Wheatbelt.
- Prosecute all unauthorised clearing.
- Monitor total vegetation cover and density in each region.

### 3. Better regulation (page 15)

#### Issues

*Regulation is an important tool for managing native vegetation values.*

*However, unclear objectives, inconsistency in the environmental standards within and across regulatory pathways, and uncertain wait times for assessments can all hinder well-informed business decisions, make compliance and enforcement difficult and undermine effective conservation. Efficient and effective regulation across government is essential to ensure fairness, transparency and the good environmental outcomes intended from regulation.*

Accurate and current monitoring and mapping of vegetation extent and condition is fundamental to informing sustainable native vegetation conservation. Development of a robust instrument for monitoring and mapping must be supported by a mechanism to ensure compliance and prosecution for non-compliance with policy.

The intent of the Issues Paper, at times, appears to be primarily concerned with the improvement of regulatory process and not the conservation of native vegetation. More specifically the Issues Paper appears to facilitate regulatory frameworks to clear native vegetation, i.e. '*Continuous improvement of operational systems, policy and processes for clearing permits, making best use of new resourcing from clearing fees and applying a risk-based approach*'. What use of resources from clearing fees are proposed to assist in the conservation and protection of remnant vegetation? What is the definition of "essential"? The emphasis must move to protecting the native vegetation instead of accommodating the proponents' intent on destroying it for financial gain.

#### Desired outcome (page 19)

Supported

#### Expected benefits (page 19)

All points supported except '*Streamlined regulation for low-risk development*'. The meanings of this are not clear. What is low risk development? Does it mean that such a category of proposals will be quickly approved without site information and investigation?

#### Possible approaches (page 19)

Offsets for 'essential developments' are not supported if the proposal is in an ESA or TEC or is at variance to a clearing principle. In these cases, clearing should not be permitted.

#### Regulation Reform

The Issues Paper suggests a number of reforms for the better regulation of native vegetation management. Of these the CWPA considers the following elements for better regulation would be most important:

- Improved protection for native vegetation
- Transparent, evidenced-based decisions

- Improved compliance and enforcement of unauthorised clearing
- Confidence in the regulatory system for all stakeholders

### **Box 11: Threatened species and communities (page 21)**

*In recent years, banksia, tuart and Wheatbelt woodlands have all been listed as nationally threatened and protected ecological communities (DoEE 2019c). Large, healthy stands of these formerly widespread communities are now relatively rare, having been extensively cleared because they grew where development pressure was high. The Government is considering a bioregional approach, to prevent other widespread ecological communities becoming threatened in future by planning sensible, evidence-based protection for areas with unique or at-risk values – considering the specific regional, social and economic context of these protections (see a bioregional approach on page 23)*

This describes Banksia, Tuart and Wheatbelt woodlands as nationally threatened and protected ecological communities. It should also mention Organic Tumulus Mound Springs. This is under the EPBC Act. But it does not say if or how these communities are actually protected federally. Currently they are not actually being protected federally or by the State, and areas are being lost by cumulative clearing patch by patch.

If the Clearing Principles were rigorously applied under the Clearing Regulations, then clearing of threatened species and communities would not be permitted. This needs to be addressed as a matter of urgency.

Better regulation is needed so that threatened species and communities are actively protected under State law and cumulative loss by clearing is prevented. Under the EP Act, explicit provisions should be introduced so that **all federally and State listed** TEC's and habitats of endangered species are legally protected to prevent their further loss of extent and condition.

In addition, they should all be listed under the EP Act as '**Environmentally Sensitive Areas**' (ESA's) which means that exemptions as described in **Box 13** do not apply.

### **Box 13: Managing unlawful clearing (page 22)**

*More than 40 exemptions allow native vegetation to be cleared without assessment under the clearing provisions of the Environmental Protection Act 1986. These exemptions avoid regulatory duplication for clearing authorised under other statutory processes or enable routine low-impact land management practices to proceed without assessment and approval. This adds complexity and challenges in identifying and regulating unlawful clearing.*

*Better information will help identify changes in native vegetation, whether those changes were lawful, and any actions necessary to restore values lost through activities that were not authorised. Better regulation could see a focus on activities to support more effective identification, investigation and prosecution of clearing that may be unlawful.*

Exemptions should not apply to the over-cleared south west region (including Perth and Peel sub-regions) and the Wheatbelt region. All proposals for clearing in these regions should be assessed under the EP Act by one agency DWER. In general, no more clearing should be permitted in these regions. This must also apply to State Government infrastructure agencies including Main Roads, Water Corporation, Landcorp and the Department of Transport. The 'avoid' principle should be enforced so that suitable alternative locations for infrastructure in areas already cleared are applied.

Prosecution of unlawful clearing is essential. This should apply to LGA's and State agencies as well as private landholders. Unauthorised clearing of roadsides by LGA's is occurring in sensitive areas such as the Wheatbelt and this must be stopped. There were 67 cases of unauthorised clearing of roadsides recently, but no prosecutions were carried out. The capacity of DWER to prosecute must be increased with additional resources, surveillance and staff.

There should be a general moratorium on clearing in the South West biodiversity hotspot and the Wheatbelt.



#### 4. A Bioregional approach (page 15)

A bioregional approach is broadly supported in principal but should not preclude Local Government in conjunction with community groups from identifying and seeking protection of native vegetation within its area. Clarity is sought in terms of the definition of 'bioregional', spatially what is a 'bioregion' and what are the implications of an area attracting this status?

- Vegetation identified as Threatened or near - Threatened should have prescriptive direction in planning and environmental policy to ensure they are not reduced or degraded once thresholds have been reached. Current practice allows the unmonitored and unquantified clearing of Threatened Ecological Communities such as Banksia and Tuart Woodlands in spite of their status.

#### Conclusion

The CWPA, whilst embracing the opportunity to comment on issues associated with native vegetation, considers that the current clearing permit process and management of Western Australia's native vegetation is fundamentally flawed. These flaws cannot be addressed by the limited scope of the Issues Paper. A comprehensive inquiry into the current process and management of native vegetation in Western Australia is required to inform any future direction or way forward. The development of a strategic policy for the conservation of native vegetation and annual reporting is supported as a first step in addressing these issues but needs to ensure the focus remains on the protection and advancement of native vegetation in WA having regard to local and federal legislation in this area.

Yours faithfully



Stephen G. Sturgeon President

Casuarina Wellard Progress Association Inc.