

Western Australian EP Act Review

Comments on Modernising the Environmental Protection Act, Discussion Paper and EPA Amendment Bill 2019

Section 2.7 Part V- Environmental Regulation, Discussion Paper:

- More staff resources are required to adequately assess clearing applications including regional officers to check on ground.
- All clearing needs to be authorised. To change this process because “this results in an administratively burdensome process for trivial clearing” is just not good enough and is not protecting our precious native vegetation. Section 51DA of the EPA Amendment Bill 2019- *Referral of proposed clearing to CEO for decision on whether a clearing permit is needed* is in principle not supported. On ground flora and fauna survey should be undertaken to assess all clearing applications. How is the CEO going to know “whether there are any known of likely significant environmental values within the area.” If there is no information on databases, that does not mean that there is not, for example Black cockatoos breeding in hollows or a threatened orchid present in Spring.
- The desktop assessments of clearing applications from a Perth office utilising the Principles of Clearing is inadequate. Environmental database systems recorded threatened flora, threatened ecological communities and threatened fauna habitat are not up to date. The assessment of clearing applications is only as good as the information you have available. Many areas of native vegetation have never had an environmental assessment undertaken including on private land and roadside vegetation. On ground assessments either by DWER officers or consultants are essential to make an informed assessment under the Principles of Clearing.
- Exemptions for rural properties to clear 5-10 ha per year should be changed to 1 ha. This exemption should only be used for farming operations such as installing fencelines, firebreaks etc and not broadscale native vegetation clearing. Cumulative clearing on properties need to be assessed under the Clearing Principles and under Section 38A of the EP Act.

Section 3.6 Decision- Making, Discussion Paper

- If a clearing application is assessed as seriously at variance with the EPA’s Clearing Principles, the application should be refused or at least scoped and discussed with the applicant to avoid and minimise impacts. Alternatives to clearing should be investigated in high conservation areas. e.g. land acquisition for road construction/widening to protect areas of roadside vegetation with threatened flora, fauna and or Threatened Ecological Communities (TECs). Currently approvals are being given for clearing applications which are at variance with many of the Clearing Principles- such as an area of threatened ecological community or threatened flora. What is the point in having Clearing Principles to assess applications when basically they are ignored. The EPA needs to be protecting areas of high conservation value, particularly in extensively cleared regions such as the Wheatbelt and the Swan Coastal Plain where the native extent of remaining native vegetation communities are below ecological threshold levels.
- The listed action in the Modernising the EP Act Discussion Paper Oct 2019 Section 3.6 Decision Making: “DWER and EPA to not make decisions or allow activities that are inconsistent with Recovery Plans under the Biodiversity Conservation Act or EPBC Act, or which would result in increasing threat to a listed species or habitat, or increase a threatening process,” is supported. This statement should therefore mean that if a clearing

application is at variance with the presence of threatened fauna, flora or TECs such that it should be refused.

Section 3.1 New Ideas, Discussion Paper

- The proposed new ideas to include community participation in environmental impact assessment and environmental regulation is supported.
- A review of section 48A of the EP Act, together with an amendment of the regulations requiring the EPA to seek public comment on the content of its assessment of planning schemes, assessment of planning schemes in Part 1V, peer review of documents and broader power for strategic assessment of cumulative impacts at a regional scale are all supported.

Section 3.7 Discussion Paper

- The Offset system is broken. It is not an effective system as 'like for like' native vegetation is no longer available to justify native vegetation permits in highly cleared landscapes.
- Bioregional plans need to be developed to enable strategic offset development and implementation at a landscape scale involving landholders, local government, NRM, and NGO groups such as Greening Australia.

Section 51H (1)

The word convenient seems unnecessary. Perhaps use "warranted".

51O. (1) Point 3 The CEO may make a decision that is seriously at variance with the clearing principles if, and only if, in the CEO's opinion there is a good reason for doing so. That reason must be recorded and published under section 51Q.

- This point requires clarification. In what circumstances would 'good reason' be warranted to approve an application that is seriously at variance to the Clearing Principles? All measures need to be taken to avoid and mitigate native vegetation clearing in the State.

Penalties

The current penalty rates are not sufficiently high to deter proponents from illegally clearing native vegetation. Penalties for illegal clearing should be increased and have more resources for compliance.

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