

# **Review of the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992**

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**As required under section 36 of the Environmental Protection Act, 1986**

**Environmental Protection Authority  
Perth, Western Australia  
November 1999**

## Summary

The *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992*, referred to in this document as the Lakes EPP, was proclaimed on 18 December 1992 and has had the force of law since this date.

The Environment Protection Authority (EPA) is required to:

- review the existing Lakes EPP;
- prepare a new draft EPP for public comment; and
- submit a revised draft EPP to the Minister for the Environment by 18 December 1999.

Accordingly, the EPA has prepared this document to meet the first two of the above requirements (pursuant to section 36 of the *Environmental Protection Act 1986*).

Upon appraising the effectiveness of the 1992 Lakes EPP and the status of wetlands resource of the Swan Coastal Plain (generally), the EPA has decided to recommend that the existing Lakes EPP be re-drafted such that lakes protected under the existing policy continue to be protected and that provision be made to also protect seasonal wetlands (that is, sumplands and damplands) of conservation significance and that this (Swan Coastal Plain Wetlands EPP) be the draft to be released for public consultation.

This decision reflects the fact that the existing Lakes EPP has been partially successful in protecting permanent and semi-permanent wetlands ('lakes') on the Swan Coastal Plain and that the EPA envisages that the Lakes EPP review process will lead to a new Swan Coastal Plain Wetlands EPP (a draft of which is attached herein for public consultation, Appendix 1). These considerations are discussed more fully in the following sections.

The EPA invites written comments from members of the community, organisations and agencies on the new draft Swan Coastal Plain Wetlands EPP (Appendix 1, this document).

The closing date for written submissions on the draft policy is 4pm Friday 26 November 1999.

## Procedure for reviewing the Lakes EPP

The EPA is required, under section 36 of the *Environmental Protection Act 1986*, to review the Lakes EPP within a period of 7 years from the date on which the policy was approved (or earlier if required to do so by the Minister for the Environment). Accordingly, the EPA is to effect its review of the Lakes EPP by:

- reviewing and appraising the effectiveness of the Lakes EPP;
- preparing and publishing a new draft Swan Coastal Plain Wetlands EPP for public review and comment (Appendix 1, this document); and
- reviewing public submissions received on the new draft policy and preparing a "revised draft" EPP for submission to the Minister for the Environment by the 18 December 1999.

Following conclusion of the EPA's review of the Lakes EPP (that is, including receipt of the revised draft EPP by the Minister for the Environment), the Minister is then required under the Act to consult with other Ministers, organisations and private individuals as are likely to be affected by the policy.

Once approved by the Minister for the Environment and published in the *Gazette*, the EPP is proclaimed and has "the force of law as though it had been enacted as part of the (Environmental Protection) Act". The "approved" policy is then laid before Parliament where it is subject to disallowance in either the Upper or Lower House of Parliament.

### **Submissions**

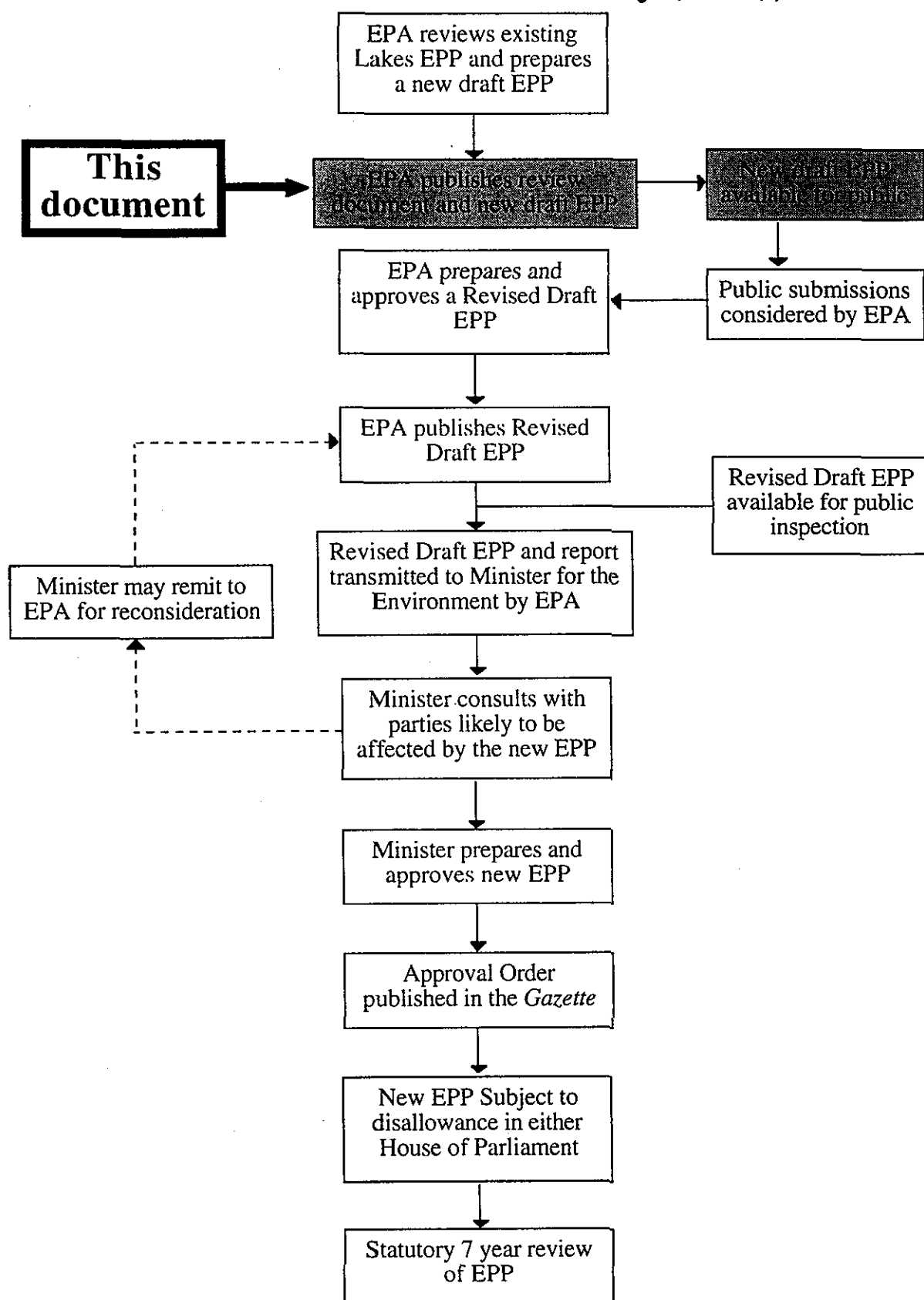
The purpose of this document is to present for public comment, in accordance with section 36 of the Environmental Protection Act, the EPA's review of the existing *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992* and proposed new draft Swan Coastal Plain Wetlands EPP. The EPA invites written comments from members of the community, organisations and agencies on the new draft Swan Coastal Plain Wetlands EPP (Appendix 1, this document). Written submissions on the draft policy should be sent to:

**Mr Geoff Bott**  
**Manager, Policy Development Branch**  
**Department of Environmental Protection**  
**8th Floor Westralia Square**  
**141 St George's Tce**  
**PERTH WA 6000**

**Telephone:** (08) 9222 7166  
**Fax:** (08) 9322 1598  
**Email:** [geoff\\_bott@environ.wa.gov.au](mailto:geoff_bott@environ.wa.gov.au)

Written submissions should be lodged by 4pm Friday 26 November 1999. All submissions will be acknowledged and a summary of submissions will accompany the revised draft policy upon its transmittal to the Minister for the Environment. Late submission will only be considered at the discretion of the EPA.

## Steps in the review of the existing Lakes Environmental Protection Policy (EPP), 1992



## **1. Background**

The Government of Western Australia published the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992*, hereafter referred to as the Lakes EPP, in the *Western Australian Government Gazette* on 18 December 1992. The policy has the force of law and is effective on and from this date.

The purpose of the policy was to provide statutory protection for Swan Coastal Plain lakes (depicted in the Department of Land Administration Miscellaneous Plan No. 1815) from filling, draining, mining and effluent discharge.

Under section 36(1)(b) of the *Environmental Protection Act 1986*, the Environmental Protection Authority (EPA) is required to review the Lakes EPP and prepare a revised draft EPP for transmittal to the Minister for the Environment within 7 years from the date on which the policy was approved (that is, the date it was published in the *Gazette*).

The EPA is therefore required under law to conduct its review and transmit a revised draft EPP to the Minister by 18 December 1999. This document has been prepared so that the EPA may meet this lawful requirement.

In accordance with section 26 of the *Environmental Protection Act 1986*, meetings will be held with stakeholders, decision-making authorities and the general public to gather community views on the new draft EPP prior to preparing and transmitting a revised draft EPP to the Minister for the Environment for her consideration.

The purpose of this document is to:

- explain the legislative context within which EPPs are both prepared and reviewed;
- invite public comment and written submissions on the new draft EPP;
- explain the purpose and structure of the new draft EPP; and
- define the relationships the new policy may have with other Government programs and instruments.

## **2. What is an Environmental Protection Policy (EPP)?**

An Environmental Protection Policy (EPP) is prepared under Part III of the *Environmental Protection Act 1986* and has "the force of law as though it had been enacted as part of this Act", on and from the day on which the policy is published in the *Western Australian Government Gazette*.

An EPP establishes:

- the boundaries of the area and the portion of the environment to which the policy applies; and
- the basis on which the environment in this area is to be protected, or pollution is to be prevented, controlled or abated.

In addition, an EPP may also:

- identify and declare the beneficial uses of the environment to be protected under the policy;
- specify the environmental quality objectives to be achieved and maintained under the policy;
- set out the indicators, parameters or criteria to be used for measuring environmental quality in the policy area;
- make statements relating to any activity directed towards the protection of the environment, including the discharge of waste;

- create offences and penalty provisions; and
- establish a program for the achievement and maintenance of the environment quality objectives within the policy area and may specify, among other things, measures designed to:
  - (i) minimise the possibility of pollution;
  - (ii) protect the environment; and
  - (iii) achieve and maintain the beneficial uses to be protected.

EPPs are made in accordance with the *Environmental Protection Act 1986*. However, the functions and powers of an EPP are bound and limited by the objects and powers of its parent Act and cannot contain any requirement or condition that may be deemed to be outside the powers of the *Environmental Protection Act* itself. Notwithstanding this, the *Environmental Protection Act* is binding on the Crown. Accordingly, all government departments and agencies are required under law to comply with both the Act and EPPs prepared under that Act.

Because an EPP can require by law that the decisions and actions of a statutory authority be consistent with the purposes of a particular policy, EPPs effectively provide a statutory framework for 'whole-of-government' environmental decision-making.

Under section 6 of the *Environmental Protection Act*, the Minister or the EPA may take one of two approaches to the matter of exemptions from compliance with the provisions of an EPP. They may prevent the granting of such exemptions, or may specify the circumstances or conditions (or both) under which an exemption may be granted. Any person who breaches a condition with which they are required to comply commits an offence, to which penalty provisions may apply.

### **3. The existing Lakes EPP**

#### **3.1 Historical background**

In June 1990, the EPA published a discussion paper regarding the protection of groundwater, wetlands and associated ecosystems of the Swan Coastal Plain (EPA, 1990). The comments and submissions on that discussion paper supported preparation of Environmental Protection Policies (EPPs) for particular aspects of the Swan Coastal Plain.

Accordingly, in early 1991 the EPA prepared a draft EPP to protect the wetlands of the Swan Coastal Plain. The EPP, which included 27 maps (referred to as Department of Land Administration Miscellaneous Plan 1700), sought to 'prohibit filling, mining, pollution or changing the drainage of wetlands on the Swan Coastal Plain, except where absolutely necessary'.

The Swan Coastal Plain Wetlands Regulations were issued in 28 March 1991 for the purpose of protecting conservation wetlands while the EPP was being finalised. These regulations were revoked once the Swan Coastal Plain Lakes EPP, as it was finally titled, was proclaimed on 18 December 1992.

### 3.2 Objectives of the existing Lakes EPP

The principal objectives of the existing Lakes EPP were:

- to declare, under the Environmental Protection Act, the beneficial uses of 'lakes' on the Swan Coastal Plain and to establish a consistent regulatory framework for the protection of these uses.

In order to achieve this objective, the existing Lakes EPP:

- defined the policy area;
- identified the beneficial use of lakes to be protected within the policy area;
- endeavoured to establish a consistent framework for decision-making that was effective and flexible and yet which protected the beneficial use of lakes; and
- established a program for the protection of the beneficial use of lakes.

### 3.3 Area to which the existing Lakes EPP applies

The policy area is the Swan Coastal Plain which extends from Moore River to Dunsborough (approximately). Maps identifying the policy area and lakes to be protected within the policy area were shown on Department of Land Administration Miscellaneous Plan No. 1815.

The lakes identified for protection under the existing EPP were selected on the basis that, in most cases, they exhibited 1000m<sup>2</sup> or more of standing water in the first week of December 1991. These areas were identified following field inspection by staff of the Department of Environmental Protection at this time.

### 3.4 Scope of the existing Lakes EPP

The Convention on Wetlands of International Importance (UNESCO, 1971), commonly referred to as the Ramsar Convention, to which Australia and 105 other nations are signatories, defines wetlands as:

"areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres".

Although rivers, estuaries and shallow marine areas are within the scope of the Ramsar definition of wetlands, their specific protection requirements have been addressed primarily through other policies, rather than the existing Lakes EPP, because of the special attributes, values and management requirements of these systems (for example, the *Environmental Protection (Peel Inlet and Harvey Estuary) Policy 1992*).

Under the existing Lakes EPP, 'lakes' are defined as those wetlands containing a minimum of 1000m<sup>2</sup> of standing (free) water in the first week of December 1991. Accordingly, many sumplands and virtually all damplands on the Swan Coastal Plain are currently not protected under the existing Lakes EPP.

### 3.5 The beneficial uses of lakes protected under the existing Lakes EPP

The beneficial use of lakes declared to be protected under clause 5 of the existing Lakes EPP are as follows:

- “(a) the use of lakes as a refuge for many rare and endangered species of flora and fauna including many birds which migrate from the northern hemisphere and which are protected under international treaties;*
- (b) the use of lakes as a focus of cultural and heritage values for communities living in the Swan Coastal Plain before European settlement, having provided the basis for food gathering and spiritual life in those communities;*
- (c) the use of lakes as an important aesthetic element of the natural landscape in the Swan Coastal Plain;*
- (d) the use of lakes as an important resource on studying the natural environment;*
- (e) the use of lakes as an intrinsic part of the natural as well as the modified surface drainage pattern of the Swan Coastal Plain; (and)*
- (f) the use of lakes as an important tool for monitoring groundwater levels and quality.”*

Clearly, the focus of the EPP historically has been to protect the environmental values and attributes of lakes and their attendant beneficial (human) uses.

### 3.6 Program of protection under the existing Lakes EPP

A simple overview of how the existing Lakes EPP works is as follows:

- it establishes the activities which may degrade or destroy lakes. In short, these activities are filling, excavating, mining, discharge of effluent into lakes and drainage of water into or out of lakes;
- it prohibits the carrying out of ‘unauthorized’ activities which may cause the destruction and degradation of lakes; and
- it establishes offences for breaches of the policy and penalty provisions apply (in the case of an individual, not exceeding \$5000 and \$1000 per day for a continuing offence and in the case of a body corporate, \$10000 and \$2000 per day for a continuing offence).

‘Unauthorized’ activities are those activities which may degrade or destroy lakes and which have not been approved under the Environmental Protection Act or any other written law or in those cases where persons are not acting in accordance with that approval.

In practice, authorization of an activity (otherwise prohibited under the policy) is obtained by way of a statutory approval or under the Environmental Protection Act by a works approval, licence, a requirement contained in a pollution abatement notice, ‘not assessed’ level of assessment (section 40 of the Act), a Ministerial Condition (section 45 of the Act), a direction (section 73 of the Act) or an exemption for the discharge of waste in emergencies (section 75 of the Act).

The Minister for the Environment or EPA may also, with the approval of the Governor, declare that all or any of the provisions of the EPP do not apply according to that (exemption) order (section 6



of the Act). In doing so, the Minister or the EPA may, as the case requires, make such declarations subject to legally-binding circumstances or conditions, as appropriate.

### **3.7 Environmental performance of the existing Lakes EPP**

In many instances the environmental performance of the existing Lakes EPP is difficult to ascertain, not merely because of the extensive nature of the policy area. Administrative procedures necessary for tracking the status, condition and trend of the wetland resource of the Swan Coastal Plain are lacking or deficient in most cases. Furthermore, the exclusion of many seasonal wetlands from the Lakes EPP does not lend the existing policy, in itself, to be an overly useful instrument for monitoring and auditing changes in the wetland resource (generally).

Notwithstanding this, the Water and Rivers Commission commissioned a review of conservation category wetlands located in the Perth Metropolitan Area which found that between 1996 and 1998:

- 51 wetlands (that is, 16%) appeared to have experienced minor change;
- 28 wetlands (that is, 9%) appeared to have been subjected to significant change; and
- 2 wetlands had experienced severe modification since 1996 and likely no longer existed (Tingay and Associates, 1999).

The EPA is concerned at the apparent continuing loss and degradation of important wetlands, particularly as this follows on from its 1991 estimate that some 80% of wetlands on the Swan Coastal Plain have already been lost or heavily modified (EPA, 1991).

[Note: since its proclamation in 1992, there has been one successful prosecution under the Lakes EPP. This was for contravention of clause 11 of the policy relating to the unauthorized excavation of a lake at Forrestdale in 1995.]

## **4. Issues considered by the EPA in reviewing the existing Lakes EPP**

There are a number of inter-related issues which impact on the existing Lakes EPP and its review. The EPA has taken these issues into account when considering the most appropriate way to proceed with its review of the existing Lakes EPP and preparation of a new draft EPP, now termed the new draft Swan Coastal Plain Wetlands EPP 1999 (attached for public comment, Appendix 1).

In preparing this review and new draft Swan Coastal Plain Wetlands EPP the EPA, while noting the apparent continuing loss and degradation of important wetlands and that some 80% of wetlands on the Swan Coastal Plain have already been lost or heavily modified (EPA, 1991), is mindful that the community expects greater protection of wetlands on the Swan Coastal Plain.

Accordingly, the EPA has proposed that the new draft Swan Coastal Plain Wetlands EPP should protect the environmental values and functions of all wetlands on the Swan Coastal Plain. This is not to say that all wetlands should be conserved *per se*, but rather that the functions and values of these wetlands must be considered when making decisions likely to result in both on-site and off-site impacts on wetlands and inter-related ecosystems and their functions.

#### **4.1 Condition of the wetland resource**

In the past, little regard has been paid to the value of wetlands, with many viewing these habitats as 'swamps' and refuges for disease, to be drained or filled so that they may be converted into land suitable for farming, housing or roads.

The EPA recognises the substantial loss, degradation and modification of wetlands that has occurred in Western Australia. Urbanisation, infrastructure development (including road construction), industrial and agricultural development and groundwater abstraction have had a significant impact on wetland ecosystems in many areas of the state. The EPA has estimated that some 80% of wetlands on the Swan Coastal Plain have been lost and most of the remainder heavily modified (EPA, 1991).

The continued loss of wetland habitat on the Swan Coastal Plain threatens the conservation of biological diversity of wetland species and communities and the very ecological processes upon which the maintenance of these ecosystems depend. In many cases, the ecological functions of the remaining wetlands in this province have been severely altered to the extent that they now bear little resemblance to their original state. Midges, eutrophication, inundation of wetland vegetation, introduced fauna and weeds are widespread and indicative of wetlands stressed and under threat. Linkages and corridors between wetland vegetation and other native vegetation are limited and fragmented, further threatening processes at the ecosystem level.

Wetlands are widely recognised as important wildlife habitats and are among the most biologically productive and biologically diverse habitats on the planet. Wetlands directly and indirectly supply food to a broad range of animals, including micro-organisms, invertebrates, fish, birds, mammals and reptiles. Wetlands also serve to purify water by filtering out suspended matter and utilising dissolved nitrogen and phosphorus for plant growth. They also provide flood control by storing and detaining storm water.

It is generally acknowledged that the major causes of biological diversity impoverishment are direct habitat loss, degradation, and fragmentation. Hence, modern wetland conservation strategies are strongly oriented toward habitat protection in the first instance.

Under the existing Lakes EPP, 'lakes' are defined as those wetlands containing a minimum of 1000m<sup>2</sup> of standing (free) water in the first week of December 1991. Accordingly, many sumplands and virtually all damplands on the Swan Coastal Plain are currently not protected under the existing Lakes EPP. Furthermore, the existing Lakes EPP does not protect those 'lakes' from land clearing or the destruction or degradation of wetland vegetation (generally). These aspects are viewed as key weaknesses of the existing Lakes EPP and provide the basis for the wetlands protection framework contained within the new draft Swan Coastal Plain Wetlands EPP (Appendix 1).

Developing a Swan Coastal Plain Wetlands EPP is an opportunity to put in place a policy framework for the future management of all wetlands on the Swan Coastal Plain. Consideration of issues beyond the immediate scope of the existing Lakes EPP is therefore highly desirable.

#### **4.2 Environmental Values and Functions of Wetlands**

Wetland characteristics or attributes, singly or in combination, give rise to environmental values or functions, which in turn may support or protect the beneficial uses of wetlands. Some of these values and beneficial uses may be potential (available to be realised in the future) rather than existing at present.

**Table 1.** *Examples of wetland values and functions.*

Values and functions of wetlands
Flood control
Flow regulation/maintenance
Aquifer recharge
Nutrient uptake and pollutant attenuation
Sediment retention
Nursery/breeding area
Habitat for flora and fauna
Shoreline stabilisation
Erosion control
Storm protection and windbreak
Contribution to the maintenance of ecosystem processes

**Table 2.** *Examples of wetland attributes and characteristics.*

Wetland attributes and characteristics
landscape/aesthetic qualities
richness or diversity of flora or fauna (biodiversity)
geomorphology
drainage pattern
water depth
emergent vegetation
water quality
soil type
area of open water

Among those beneficial uses, which can occur on or off the wetland itself, are:

- sediment and erosion control;
- flood control, maintenance of water quality and abatement of pollution;
- maintenance of surface and underground water supplies;
- support for fisheries, grazing and agriculture;
- outdoor recreation and education for human society; and
- provision of habitat for flora and fauna.

**Table 3. Relationship between functions provided by native fringing vegetation and wetland management issues.**

Functions provided by native fringing vegetation	Environmental effects associated with the loss or degradation of native fringing vegetation functions.
Bank stabilization and erosion control	Sedimentation and eutrophication
Nutrient and pollutant filtration, uptake and attenuation	Eutrophication, contamination and contact recreation
Decreases the velocity of flood waters and reduces peak flood levels	Erosion, sedimentation and loss of in-stream habitats
Provides diversity in aquatic habitat	Loss of aquatic biodiversity
Provides habitat for terrestrial flora and fauna	Loss of biodiversity
Landscape and recreational amenity	Impairment of visual and recreational amenity
Provides wildlife corridors for long-term ecological sustainability	Fragmentation and loss of biodiversity

#### 4.4 The Ramsar Convention and the 'Wise Use of Wetlands' concept

Article 3.1 of The Convention on Wetlands of International Importance (commonly referred to as the Ramsar Convention), to which Australia is signatory, states that the contracting parties:

*"shall formulate and implement their planning so as to promote the conservation of the wetlands .... and as far as possible the wise use of wetlands in their territory".*

(UNESCO, 1971)

The following definition of 'wise use of wetlands' adopted by the Contracting Parties to the Convention in 1987 has been applied by the EPA during its preparation of the new draft EPP:

*"The wise use of wetlands is their sustainable utilization for the benefit of humankind in a way compatible with the maintenance of the natural properties of the ecosystem"*

Further, the Contracting Parties defined sustainable utilization as:

*"Human use of a wetland so that it may yield the greatest continuous benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations".*

Natural properties of the ecosystem was also defined as:

*"Those physical, biological or chemical components, such as soil, water, plants, animals and nutrients, and the interactions between them".*

Many human practices or activities are ecologically unsustainable and cause degradation and loss of wetlands. The Ramsar Convention has developed guidelines for the wise use of wetlands. This concept of wise use seeks to modify human use of wetlands so that there is continuous benefit to present generations while at the same time maintaining the natural values, functions and ecological processes are maintained for future generations.

[Note: further details of the Ramsar Convention and the 'wise use of wetlands' concept may be viewed on the internet at [www.ramsar.org](http://www.ramsar.org)]

Accordingly, the EPA, in developing the new draft EPP, has applied the 'wise use' concept to all wetlands of the Swan Coastal Plain, not merely lakes or those wetlands designated under the List of Wetlands of International Importance (Ramsar). In doing so, the EPA believes the EPP will raise the awareness and understanding of decision-makers and the public of the benefits and values and

functions (within the terms of 'wise use') of wetlands and provide a statutory and logical framework for the development of instruments for the ecologically sustainable management of the wetland resource of the Swan Coastal Plain.

#### **4.5 Wetlands Conservation Policy for Western Australia**

The 'Wetlands Conservation Policy for Western Australia' was released by the Government of Western Australia in July 1997 (Government of WA, 1997). In this document the Government provided a commitment to identify, maintain and manage the State's wetland resource, including the full range of wetland values, for the long term benefit of the people of Western Australia.

In making this commitment the Government established the following principal objectives with respect to the conservation of the State's wetland resource:

- To prevent the further loss or degradation of wetlands and wetland types, and promote wetland conservation, creation and restoration;
- To include viable representatives of all major wetland types and key wildlife habitats and associated flora and fauna within a Statewide network of appropriately located and managed conservation reserves which ensure the continued survival of species, ecosystems and ecological functions;
- To maintain, in viable wild populations, the species and genetic diversity of wetland-dependent flora and fauna; and
- To maintain the abundance of waterbird populations, particularly migratory species.

Consistent with the above principles, the Government also committed to:

- (1) Ensuring that any proposals likely to have a significant environmental impact on wetlands are referred to the EPA for environmental impact assessment and assisting the EPA with such assessments;
- (2) Assisting the EPA with the publication of policies and criteria for the environmental impact assessment of new developments which may affect wetlands;
- (3) Developing a wetland evaluation process, including identification of beneficial uses and management objectives, with Statewide applicability, that will assist in ensuring that planning and management decisions concerning wetlands and their catchments are based upon as complete a knowledge as possible of current and future wetland values; and
- (4) Developing and promoting the use of a single classification system, including vegetation classification, for the wetlands of Western Australia.

There are clearly significant points of interaction (and some inconsistencies) between the Wetlands Conservation Policy for Western Australia and the existing Lakes EPP which it is hoped the proposed new draft Swan Coastal Plain Wetlands EPP will rectify.

The EPA has considered the Government's Wetland Conservation Policy and, more particularly, implementation of the 'wise use' concept in preparing the new draft Swan Coastal Plain Wetlands EPP.

#### **4.6 Buffer areas**

The EPA and DEP have and will continue to advocate the use of buffer areas to separate wetlands from land uses incompatible with the maintenance and protection of the beneficial uses of those wetlands (for example, residential areas adjacent to wetlands). The requirement to provide adequate

## 5. EPA observations and suggestions

In considering the above issues relating to the existing Lakes EPP, the Wetlands Conservation Policy for Western Australia and the 'Wise Use of Wetlands', the EPA has made a number of observations which are presented below for the purpose of guiding understanding during the review of the existing Lakes EPP.

In response to the need to conserve Western Australia's unique biological diversity the EPA, in reviewing the existing Lakes EPP, has proposed that the new draft policy (Swan Coastal Plain Wetlands EPP) should protect the environmental values and functions of all wetlands on the Swan Coastal Plain. This is not to say that all wetlands should be conserved *per se*, but rather that the functions and values of these wetlands must be considered when making decisions likely to result in both on-site and off-site impacts on wetlands and inter-related ecosystems and their functions.

Accordingly, the new draft policy seeks to protect the environmental quality of the wetland resource of the Swan Coastal Plain and to establish a consistent framework for the management of wetlands in accordance with ecologically sustainable development principles, regardless of land use or activity. Management should be consistent with the 'wise use of wetlands' concept.

Administratively, the new draft EPP establishes a Register which *inter alia* protects 'conservation' (category 'C') wetlands from direct impacts, such as draining, land clearing, filling, mining and excavation, irrespective of the period of inundation or water permanency.

In addition, the Register established under the new draft Swan Coastal Plain Wetlands EPP also provides for the future nomination and identification by the EPA of 'resource enhancement' (category 'R') and 'multiple use' (category 'M') wetland management objectives, consistent with the notion of their 'wise use'. The policy also provides for the future addition of specific measures and management philosophies relating to the management of these wetlands as these are developed.

[Note: further information regarding the determination of wetland management objectives/categories is contained within EPA Bulletin 686 and Hill et al (1996)]

The *Environmental Protection Act 1986* requires both the EPA and the Minister for the Environment to consult such parties as are likely to be affected by an EPP. Accordingly, development of the new Swan Coastal Plain Wetlands EPP will require extensive public consultation, as will the nomination and inclusion of specific wetland areas into the Register established under the new EPP.

## **6. When will the new draft Swan Coastal Plain Wetlands EPP be finished?**

Developing an EPP is a lengthy process, largely as a result of the extensive public consultation that is required to be undertaken under the *Environmental Protection Act*. Consultation on the draft EPP has commenced with release of this document. A revised draft policy will have to be prepared and submitted to the Minister for the Environment by 18 December 1999. Once the issues which have been raised during the public submission period have been resolved, it is expected that the new EPP will be proclaimed in mid 2000.

## **7. Conclusions**

The existing Lakes EPP has been partially successful since its proclamation in 1992 in averting the destruction and degradation of 'lakes' on the Swan Coastal Plain.

The review of this EPP is to be full and open with no predetermined outcomes. Nevertheless, the EPA has indicated in the new draft Swan Coastal Plain Wetlands EPP 1999 what it believes would be a desirable outcome of the review, in light of the EPA's long involvement with wetlands policy development and wetland management and protection in Western Australia (Appendix 1&2).

## **8. Submissions**

The purpose of this document is to present for public comment, in accordance with sections 36 and 26 of the Environmental Protection Act, the EPA's review of the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992* and proposed new draft Swan Coastal Plain Wetlands EPP (Appendix 1, this document). The EPA invites written comments from members of the community, organisations and agencies on the new draft EPP. Written submissions on the new draft Swan Coastal Plain Wetlands EPP should be sent to:

**Mr Geoff Bott**  
**Manager, Policy Development**  
**Department of Environmental Protection**  
**8th Floor Westralia Square**  
**141 St George's Tce**  
**PERTH WA 6000**

**Telephone:** (08) 9222 7166  
**Fax:** (08) 9322 1598  
**Email:** geoff\_bott@environ.wa.gov.au

Written submissions should be lodged by 4pm Friday 26 November 1999.

All submissions will be acknowledged and a summary of submissions will accompany the revised draft EPP. Late submission will only be considered at the discretion of the EPA.

## References

- EPA (1990). Protection of the groundwater, wetlands and associated ecosystems of the Swan Coastal Plain. Discussion Paper. Environmental Protection Authority, Western Australia.
- EPA (1991). Draft Environmental Protection (Swan Coastal Plain Wetlands) Policy 1991. Environmental Protection Authority, Western Australia.
- Government of Western Australia (1997). Wetlands Conservation Policy for Western Australia.
- Hill, A., Semeniuk, C., Semeniuk, V., & Del Marco, A. (1996). Wetlands of the Swan Coastal Plain - Volume 2A - wetland mapping, classification and evaluation. Water and Rivers Commission.
- Tingay and Associated (1999). Preliminary review of non-EPP Conservation Category Wetlands. A report to the Water and Rivers Commission.
- UNESCO (1971). The Contracting Parties to the Convention on Wetlands of International Importance Especially as Waterfowl Habitat.



## **APPENDIX 1**

**ENVIRONMENTAL PROTECTION ACT 1986**

**NEW DRAFT ENVIRONMENTAL PROTECTION (SWAN COASTAL PLAIN  
WETLANDS) POLICY 1999**

ENVIRONMENTAL PROTECTION ACT 1986

DRAFT ENVIRONMENTAL PROTECTION (SWAN COASTAL PLAIN  
WETLANDS) POLICY 1999

*Background to the approval of this environmental protection policy*

*The Government of Western Australia —*

- (a) *recognizes its obligations under the Intergovernmental Agreement on the Environment made between the Commonwealth, the States and Territories, and the Australian Local Government Association on 1 May 1992;*
- (b) *is cognisant of Australia's assent to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on Wetlands of International Importance, 2 February 1971, and adoption of the Guidelines for the Implementation of the Wise Use Concept as an annex by Contracting Parties in 1990;*
- (c) *recognizes the intrinsic beneficial uses, values and functions, within the terms of 'wise use', of wetlands which can occur on or off the wetland itself;*
- (d) *is concerned that the values and functions of wetlands are being degraded by certain human activities and that such degradation poses a threat to the maintenance of the beneficial uses of wetlands;*
- (e) *notes that it is vital to anticipate, prevent and address the causes of the loss or degradation of the beneficial uses, values and functions of wetlands;*
- (f) *seeks to promote the re-creation, restoration, rehabilitation and enhancement of wetlands whose beneficial uses, values and functions have been destroyed or degraded;*
- (g) *identifies the need to adopt an ecosystem management approach which is driven by explicit environmental objectives, executed by policies, protocols, and best management practices, and where appropriate adapted according to the results of monitoring and research;*
- (h) *notes that where there is a threat of serious or irreversible environmental damage the lack of complete scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation; and*
- (i) *is determined to promote and foster the adoption of common wetland management objectives and to develop and to implement programs and other measures to stem the loss and degradation of the values and functions of wetlands on the Swan Coastal Plain.*

## Part 1 - Preliminary

### 1. Citation

This policy may be cited as the *Environmental Protection (Swan Coastal Plain Wetlands) Policy 1999*.

### 2. Purpose of policy

The purpose of this policy is to declare and protect the beneficial uses of wetlands on the Swan Coastal Plain.

### 3. Interpretation

(1) In this policy, unless the contrary intention appears —

“clearing” includes removing or destroying;

“effluent” means any waste material discharged from industrial premises;

“mining operations” has the same meaning as it has in section 8(1) of the *Mining Act 1978*;

“native fringing vegetation”, in relation to a wetland, means any plant species normally associated with the wetland;

“protected wetland” means a conservation category wetland recorded in Table C of the Register or a wetland coloured green on Department of Land Administration Plan Miscellaneous Plan No. 1815;

“this policy” means this environmental protection policy; and

“wetland” means land in the policy area that is subject to permanent or seasonal inundation or waterlogging, whether by water that is fresh, brackish, or saline, or flowing or static, but does not include estuaries, rivers or their tributaries.

### 4. Policy area

(1) The policy applies to —

(a) the area of land known as the Swan Coastal Plain that is shown bordered in red on Environmental Protection Plan No. 2, that plan being certified by the Minister as the plan prepared for the purposes of defining the policy area; and

(b) that portion of the environment—

(i) identified in the Register; and

(ii) coloured green on Department of Land Administration Plan Miscellaneous Plan No. 1815.

(2) For information purposes, a representation of Environmental Protection Plan No. 2 is set out in Schedule A.

- (3) The Department is to make Environmental Protection Plan No. 2 available for public inspection during normal office hours at the head office of the Department in Perth.

Note: The policy area does not include the area defined as the South West Agricultural Zone in Schedule A to the Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998.

## **5. Application**

- (1) this policy applies to land in the policy area.

## **Part 2 — The Register of protected wetlands**

### **5. The Register**

- (1) The Authority is to establish and maintain in accordance with this Part a register of wetlands under this policy.
- (2) The Authority is to include as part of the information provided in the Register in respect of wetlands details of —
  - (a) the Australian Map Grid coordinates that identify the location of the wetland; and
  - (b) the name of the wetland (if applicable) and any other information that indicates the extent of the wetland.
- (3) The Authority is to record wetlands in the Register in a manner that enables a person who consults the Register to determine whether any wetland so recorded is in Category C or Category R or Category M of the Register.

### **6. Nominating wetlands to be recorded in the Register**

- (1) A person, body, agency or organization (**“the proposer”**) may make a written submission to the Authority nominating a wetland for inclusion in the Register.
- (2) A submission made under subclause (1) is to include details of —
  - (a) the Australian Map Grid coordinates that identify the location of the wetland;
  - (b) the name of the wetland (if applicable) and any other information that indicates the extent of the wetland;
  - (c) the proposed management category of the wetland; and
  - (d) the condition of the wetland and any other information the proposer considers appropriate in support of recording the wetland in the Register.
- (3) The Authority may require additional written information to be submitted by the proposer in support of recording a wetland in the Register.

## 7. Recording wetlands in the Register

- (1) If —
  - (a) a submission is made under clause 7(1) in respect of a wetland nominated for inclusion in the Register;
  - (b) after consulting with the —
    - (i) owner of the wetland; or
    - (ii) person, body, agency or organization with which the care, control and management of the wetland is placed;
  - (c) the Authority is satisfied that the wetland should be recorded in the Register;
  - (d) the Authority confirms or corrects, as the case requires, the details referred to in clause 7(2) that apply to the wetland;
  - (e) the Authority is satisfied as to the appropriate Category in which to record the wetland; and
  - (f) the Authority obtains the written approval of the Minister for the wetland to be recorded in the Register,

the Authority is to record the wetland in the Register.

## 8. Amending the Register

- (1) Any person, body, agency or organization (**"the proposer"**) may make a written submission to the Authority to propose that —
  - (a) the entry in the Register in respect of any wetland be corrected; or
  - (b) a wetland recorded in the Register be deleted from the Register.
- (2) A submission made under subclause (1) is to include details of —
  - (a) the name of the wetland (if applicable) and any other information that identifies the entry in the Register in respect of the wetland; and
  - (b) if the submission is made under paragraph (b) of that subclause, the condition of the wetland and any other information, the proposer considers appropriate in support of deleting the wetland from the Register.
- (3) The Authority may require additional written information to be submitted by the proposer in support of correcting an entry in the Register or deleting a wetland from the Register.
- (4) If —
  - (a) a submission is made under clause 8(1); and
  - (b) the Authority is satisfied that the entry in the Register in respect of the wetland is incorrect,

the Authority is to either correct the entry or delete the wetland from the Register, as appropriate.

## **9. Availability of the Register**

The Department is to make the Register available for public inspection during normal office hours at the head office of the Department in Perth.

## **10. Wetlands recorded in Category C of the Register**

- (1) A wetland is appropriately recorded in the Register in Category C if it is a wetland to which this clause applies.
- (2) This clause applies to a wetland —
  - (a) that the Authority is required under this Part to record in the Register; and
  - (b) that the Authority has determined has a high degree of value for conservation.
- (3) A typical wetland to which this clause applies —
  - (a) may be a wetland with a high degree of naturalness;
  - (b) may have significant cultural or human use values; or
  - (c) may be representative of a particular form, type or kind of wetland.

## **11. Wetlands recorded in Category R of the Register**

- (1) A wetland is appropriately recorded in the Register in Category R if it is a wetland to which this clause applies.
- (2) This clause applies to a wetland that the Authority is required under this Part to record in the Register and to which clause 10(2)(b) does not apply.
- (3) This clause applies to a wetland that the Authority has determined has a moderate degree of naturalness;
- (4) A wetland to which this clause applies —
  - (a) may have significant hydrological, ecological or human use value without having a high degree of naturalness; or
  - (b) may be representative of a particular form, type or kind of wetland requiring rehabilitation or restoration.

## **12. Wetlands recorded in Category M of the Register**

- (1) A wetland is appropriately recorded in the Register in Category M if it is a wetland to which this clause applies.
- (2) This clause applies to a wetland that the Authority is required under this Part to record in the Register and to which clauses 10(2)(b) and 11(3) do not apply.
- (3) A typical wetland to which this clause applies —
  - (a) may have significant hydrological value; or
  - (b) may have been highly modified and exhibit limited ecological or human use value.

## **Part 3 — Basis on which wetlands are to be protected and programme for protection of wetlands**

### **13. Beneficial uses of protected wetlands**

- (1) The uses of protected wetlands that are declared to be beneficial uses to be protected under this policy are —
  - (a) their use —
    - (i) as a habitat for —
      - (I) locally indigenous fauna, including migratory or threatened species; or
      - (II) locally indigenous flora, including threatened species,
    - (ii) for the maintenance of the diversity and abundance of locally indigenous fauna and flora species;
    - (iii) to provide a biologically productive and genetically diverse natural environment;
    - (iv) to maintain ecological processes;
    - (v) as an important recreational element of the natural landscape of the policy area;
    - (vi) as an intrinsic part of the natural hydrology and surface and groundwater drainage system of the policy area;
  - (b) the use of fringing native vegetation as an important element of the natural landscape of the policy area;
  - (c) their use as an important resource in studying the natural environment; and
  - (d) together with their beds, banks, and contours, as an important element of the natural landscape of the policy area.

### **14. Activities that may degrade or destroy wetlands**

- (1) The activities that may degrade or destroy wetlands include —
  - (a) filling in wetlands with materials;
  - (b) carrying out excavation or mining operations in wetlands;
  - (c) discharging water into wetlands or the withdrawal of water or drainage of water from wetlands;
  - (d) damaging or clearing emergent or fringing native vegetation of wetlands;
  - (e) disposing of or discharging, either directly or indirectly, effluent into wetlands;

- (f) engaging in active recreation in wetlands, such as water skiing, horse riding and off-road driving;
- (g) permitting stock to enter wetlands for watering and grazing;
- (h) introducing non-locally indigenous flora or non-locally indigenous fauna into wetlands;
- (i) inappropriate burning-off in wetlands; and
- (j) harvesting flora or fauna in wetlands.

#### **15. Environmental quality objectives for policy area**

- (1) The general environmental quality objective for wetlands in the policy area is to restore and maintain the beneficial uses of wetlands.
- (2) The environmental quality objectives to be achieved and maintained by means of this policy in respect of the ecological and hydrological processes of wetlands within the policy area are as prescribed.
- (3) Without limiting the generality of subclause (2) —
  - (a) levels of pollutants in wetlands in the policy area;
  - (b) water level regimes in wetlands in the policy area; and
  - (c) monitoring protocols, sampling procedures, standards, criteria, benchmarks, statistical treatments, simulation models and reporting procedures for measuring the environmental quality of wetlands within the policy area,

may be prescribed.

### **Part 4 - Programme for protecting wetlands and their beneficial uses**

#### **16. Programme for protecting the beneficial uses of the policy area**

- (1) The protection of wetlands and their beneficial uses is to be effected by —
  - (a) prohibiting the carrying out of activities which cause the destruction and degradation of protected wetlands;
  - (b) requiring persons who cause the destruction or degradation of protected wetlands to undertake the restoration or re-establishment of those protected wetlands;
  - (c) controlling the carrying out of activities which cause the destruction and degradation of wetlands generally;
  - (d) establishing the Register;
  - (e) the establishment of a training course for wetland managers, administrators, specialists, community groups and landowners; and
  - (f) the development and implementation of measures and programmes to protect the values and functions of wetlands.



## **Part 5 — Control of certain activities in relation to protected wetlands**

### **17. Filling in protected wetlands prohibited**

A person shall not cause or permit any material to be placed in such a position that the whole or any part of a protected wetland is filled in unless the person is authorized to do so and is acting in accordance with that authorization.

### **18. Excavation and mining in protected wetlands prohibited**

A person shall not cause or permit the carrying out of any excavation or mining operations in, on or under a protected wetland unless the person is authorized to do so and is acting in accordance with that authorization.

### **19. Discharge or disposal of effluent into protected wetlands prohibited**

A person shall not cause or permit the discharge or disposal of effluent into a protected wetland unless the person is authorized to do so and is acting in accordance with that authorization.

### **20. Construction or alteration of drainage systems prohibited**

A person shall not cause or permit the construction or alteration of any system for the drainage of water into or out of a protected wetland unless the person is authorized to do so and is acting in accordance with that authorization.

### **21. Damaging or clearing of native vegetation**

- (1) Subject to subclause (2), a person shall not cause or permit the damaging or clearing of emergent or fringing vegetation at or from a protected wetland unless the person is authorized to do so and is acting in accordance with that authorization.
- (2) Subclause (1) does not apply to prohibit the clearing of native vegetation —
  - (a) that is carried out to the extent necessary to avoid imminent risk of injury to a person or damage to property;
  - (b) that is carried out in accordance with the *Bush Fires Act 1984*;
  - (c) that is carried out in accordance with a management plan *approved and in operation under section 60 of the Conservation and Land Management Act 1984*; or
  - (d) that is carried out to the extent authorized by a licence issued under the *Wildlife Conservation Act 1950*.

### **21. Offences and penalties**

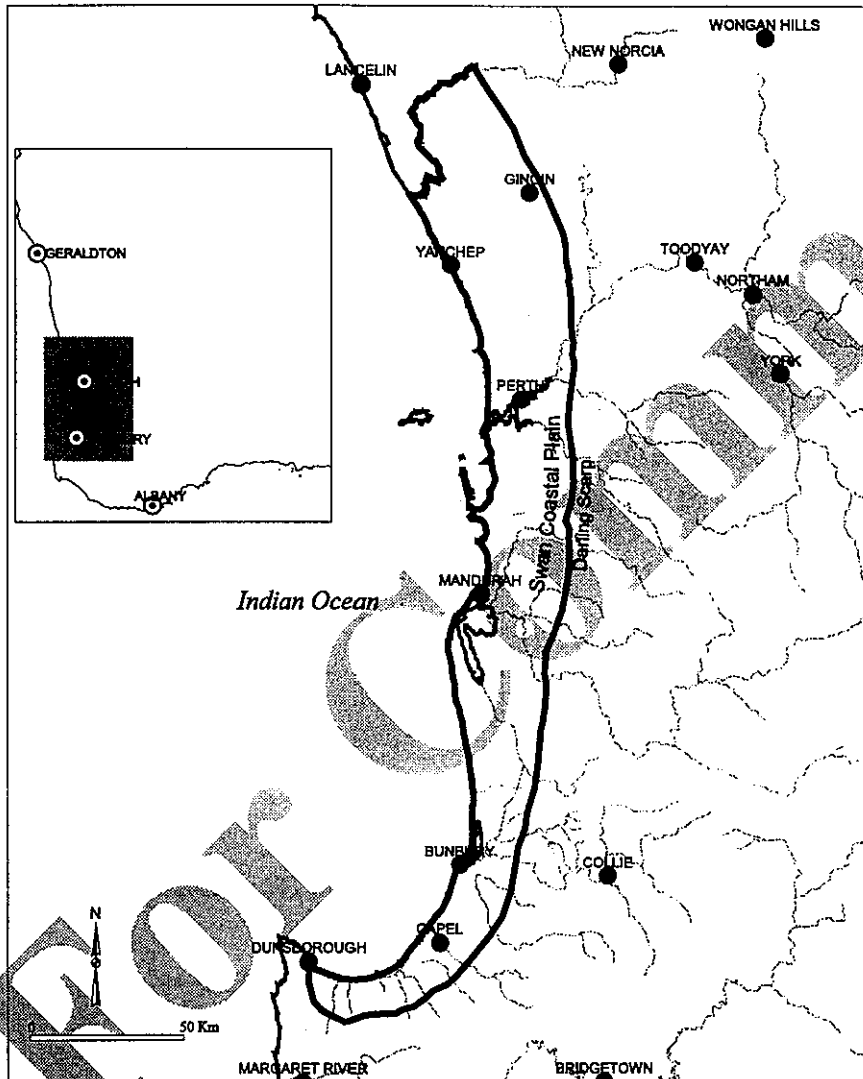
A person who contravenes clause 17, 18, 19, 20 or 21 commits an offence.

Penalty: For an individual — \$5 000 and a daily penalty of \$1 000.  
For a body corporate — \$10 000 and a daily penalty of \$2 000.

## Schedule A

(Clause 4(2))

### Representation of Environmental Protection Plan No. 2



## **APPENDIX 2**

### **EPA HISTORY OF WETLANDS PROTECTION**

## **EPA History of Wetlands Protection**

### **Milestones in wetland protection in Western Australia**

Bulletin 27 & 79: In 1977 the (then) Department of Conservation and Environment published Bulletin 27, 'Guidelines to the Conservation and Management of Wetlands in Western Australia' (DCE, 1977). These guidelines established the broad principles by which wetlands were afforded protection and were subsequently revised and published in 1980 as Bulletin 79 (DCE, 1980) for the purposes of:

- providing input into the education of the broader public; and
- helping planners, developers, local authorities and land owners to ensure on-going protection of remaining lakes and wetlands.

Bulletin 227: In 1986 the EPA refined its wetland management guidance when it released Bulletin 227, 'Draft Guidelines for Wetland Conservation in the Perth Metropolitan Area' (EPA, 1986). These guidelines were issued to assist in establishing management priorities for wetlands in the vicinity of Perth. These priorities included consideration of both natural and human use attributes and values.

Bulletin 227 included a wetland evaluation procedure which sought to appraise the natural and human use values and environmental management objectives of individual wetlands. These values and environmental management objectives were then to be used as the basis for both guiding wetland-sensitive development and providing context for assessing the wetland impacts of such developments.

Bulletin 374: The wetland evaluation methodology was once more revised in November 1990 when the EPA released Bulletin 374, 'A guide to wetland management in Perth' (EPA, 1990a). This revision arose following further field testing of the evaluation methodology.

The purpose of this bulletin was to:

- outline broad management objectives for wetlands on the Swan Coastal Plain in the near Perth region; and
- provide an evaluation method so that individual wetlands could be allocated a specific management category.

Bulletin 686: In July 1993 the EPA further revised its wetland evaluation procedure when it published Bulletin 686, 'A guide to wetland management in the Perth and Near Perth Swan Coastal Plain Area' and its companion Bulletin 685, 'Strategy for the protection of lakes and wetlands of the Swan Coastal Plain' (EPA, 1993a&b). Bulletin 686 was issued as an update of the earlier guidance (Bulletin 374) and is the wetland evaluation procedure currently used by the EPA.

'No net loss' policy: In October 1993, the Coalition election platform pledged a 'no net loss' wetlands policy. This was to be realised in three ways; by conserving existing wetlands, by creating new ones and, most importantly, by restoring and enhancing those that had been lost or degraded.

## **Environmental impact assessment**

The EPA has published many reports advising the Minister for the Environment of development proposals likely to impact wetlands and the likely environmental acceptability of such impacts. The EPA has previously issued the following reports, some of which have called for compensatory action (wetland replacement) to be undertaken by proponents to mitigate against wetland loss which would otherwise occur as a consequence of development approval:

- Management of wetland impacts associated with extension of the Kwinana Freeway (Forrest Rd to Thomas Rd, Casuarina), Main Roads Department (EPA Bulletin 664, 1992);
- Jandakot Groundwater Scheme Stage II, Water Authority of Western Australia (EPA Bulletin 587, 1991);
- Landfill for future widening of the Mitchell Freeway at Lake Monger, Main Roads Department (EPA Bulletin 439, 1990);
- Relocation of the Cedric Street Wetland, City of Stirling (EPA Bulletin 658, 1992);
- Church and school, lot 68 Bertram Road, Wellard, El Shaddai Kwinana Christian Fellowship (EPA Bulletin 791, 1995);
- Roadworks and wetlands in The Perth Metropolitan Region: Recommendations for Conflict Resolution (DCE Bulletin 233, 1985);
- Route alignment for Perth to Darwin National Highway and Fast Transit Route and excision of land from State Forest No 65 and Priority 1 Source Protection Area for Urban Development, Main Roads Western Australia and Ellenbrook Management Pty Ltd (EPA Bulletin 753, 1994);
- Final criteria of environmental acceptability for land use proposals within the catchment of Lake Clifton (EPA Bulletin 864, 1997);
- Residential development and drainage, Amarillo Farm, Karnup, Homeswest (EPA Bulletin 862, 1997);
- Water allocation and Perth's Water Future Strategy (EPA Bulletin 903, 1998);
- Remlap Ranch Resort, Myalup, Greenvale Enterprises Pty Ltd (EPA Bulletin 813, 1996);
- Subdivision: Concept plan and design Lots 37 and 47 Brixton Street, Kenwick, Homeswest (EPA Bulletin 577, 1991);
- Groundwater resource allocation, East Gnangara, Water and Rivers Commission (EPA Bulletin 904, 1998);
- Kalamunda Road realignment, Guildford Cemetery, South Guildford, Metropolitan Cemeteries Board (EPA Bulletin 933, 1999);

- Proposed subdivision of Swan Location 2703 Nisa Road, Pinjar, City of Wanneroo, Mirreen Nominees (EPA Bulletin 728, 1993);
- Roe Highway, Stages 3 to 5 Welshpool Road to South Street, Main Roads of Western Australia (EPA Bulletin 709, 1993);
- Murrayfield airpark and resort complex, Royal Aero Club of WA and Hawkview Holdings Pty Ltd (EPA Bulletin 713, 1993);
- Harbour City canal estate, Mandurah, Esplanade (Mandurah) Pty Ltd (EPA Bulletin 656, 1992);
- Special rural rezoning, subdivision and development - Lot 2 Swan Location 934, 2383, 2482 and 2829, Badgerup Road, Wanneroo (EPA Bulletin 592, 1991);
- Special Rural development, Swan Coastal Plain Catchment of the Peel-Harvey Estuary, Mr M Lyon and DG & ED Hutcheson and the Shire of Serpentine/Jarrahdale (EPA Bulletin 551, 1991);
- Beeliar Park Catholic school development, Catholic Education Office (EPA Bulletin 636, 1992);
- Proposed peat mine in Lake Tamworth, Baldivis, Lake Tamworth Partnership (EPA Bulletin 757, 1994);
- The Sanctuary, Pelican Point, Bunbury, Pelican Point Pty Ltd (EPA Bulletin 616, 1992);
- Reid Highway - Beechboro Road to Great Northern Highway, Main Roads (EPA Bulletin 735, 1994); and
- Kemerton silica sand mining proposal, Gwalia Consolidated Ltd (EPA Bulletin 741, 1994).

## **APPENDIX 3**

**ENVIRONMENTAL PROTECTION ACT 1986**

**ENVIRONMENTAL PROTECTION (SWAN COASTAL PLAIN LAKES)  
POLICY 1992**

**ENVIRONMENTAL PROTECTION**

**EP301**

**ENVIRONMENTAL PROTECTION ACT 1986**

**ENVIRONMENTAL PROTECTION (SWAN COASTAL PLAIN  
LAKES) POLICY APPROVAL ORDER 1992**

MADE by the Minister under section 31 (d).

**Citation**

1. This order may be cited as the *Environmental Protection (Swan Coastal Plain Lakes) Policy Approval Order 1992*.

**Approval and commencement of  
environmental protection policy**

2. The environmental protection policy set out in the Schedule —
  - (a) is approved; and
  - (b) shall have the force of law on and from the day on which this order is published in the *Gazette*.



## SCHEDULE

## ENVIRONMENTAL PROTECTION ACT 1986

ENVIRONMENTAL PROTECTION (SWAN COASTAL PLAIN  
LAKES) POLICY 1992

APPROVED by the Minister under section 31 (d).

## PART 1 — PRELIMINARY

## Citation

1. This policy may be cited as the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992*.

## Purpose of policy

2. The purpose of this policy is to protect the environmental values of lakes on the Swan Coastal Plain.

## Interpretation

3. In this policy, unless the contrary intention appears —

“effluent” means liquid, either with or without particles of matter therein, that is discharged from premises and includes sludge;

“lake” means a lake to which this policy applies under clause 4 (1);

“land conservation district committee” means a land conservation district committee established under section 23 of the *Soil and Land Conservation Act 1945*;

“mining operations” has the meaning given to that expression in section 8 (1) of the *Mining Act 1978*;

“Swan Coastal Plain” means the area defined in Schedule 1;

“this policy” means this environmental protection policy.

## Application

4. (1) This policy applies to those lakes on the Swan Coastal Plain that are shown coloured in green on Department of Land Administration Miscellaneous Plan No. 1815.

(2) The lakes referred to in subclause (1) have in most cases been selected for inclusion in this policy on the basis that they consisted of areas of standing water of 1 000 square metres or more as at 1 December 1991.

(3) The plan referred to in subclause (1) is available for public inspection during normal office hours at the head office of the Environmental Protection Authority in Perth.

PART 2 — BASIS ON WHICH LAKES ARE TO BE PROTECTED  
AND PROGRAMME FOR PROTECTION OF LAKES

## Beneficial uses

5. The following uses of lakes are declared to be beneficial uses to be protected under this policy —

(a) use of lakes as a refuge for many rare and endangered species of flora and fauna including many birds which migrate from the northern hemisphere and which are protected under international treaties;

- (b) use of lakes as a focus of cultural and heritage values for communities living in the Swan Coastal Plain before European settlement, having provided the basis for food gathering and spiritual life in those communities;
- (c) use of lakes as an important aesthetic element of the natural landscape in the Swan Coastal Plain;
- (d) use of lakes as an important resource in studying the natural environment;
- (e) use of lakes as an intrinsic part of the natural as well as the modified surface drainage pattern of the Swan Coastal Plain;
- (f) use of lakes as an important tool for monitoring groundwater levels and quality.

#### Degradation and destruction of lakes

6. Since European settlement more than two-thirds of lakes on the Swan Coastal Plain have been severely degraded or destroyed and the lakes that remain are in danger of being further degraded or destroyed.

#### Significant causes of the degradation or destruction of lakes

7. The following activities can cause lakes to be degraded or destroyed —
- (a) the filling in of lakes with materials;
  - (b) the carrying out of excavation or mining operations in lakes;
  - (c) the discharge or disposal of effluent into lakes; and
  - (d) the drainage of water into or out of lakes.

#### Programme for protection of lakes

8. The protection of lakes is to be effected by —
- (a) prohibiting the carrying out of activities which cause the destruction and degradation of lakes; and
  - (b) requiring persons who cause the destruction or degradation of lakes to undertake, in certain cases, the rehabilitation or re-establishment of those lakes.

### PART 3 — CONTROL OF CERTAIN ACTIVITIES IN LAKES

#### Meaning of "authorized under the Act"

9. In this Part, "authorized under the Act" means authorized under a works approval, a licence, a requirement contained in a pollution abatement notice, section 40 (1) (a) of the Act (by being informed under that section that a proposal does not need to be assessed under Part IV of the Act), a condition under section 45 of the Act, a direction under section 73 of the Act or an exemption under section 75 of the Act.

#### Filling of lakes

10. A person shall not cause or permit any material to be placed in such a position that the whole or any part of a lake is filled in unless the person is authorized under the Act to do so, or has been authorized to do so under any other written law before the day on which this policy is approved, and is acting in accordance with that authorization.

**Excavation and mining in lakes**

11. A person shall not carry out any excavation or mining operations in, on or under a lake unless the person is authorized under the Act to do so, or has been authorized to do so under any other written law before the day on which this policy is approved, and is acting in accordance with that authorization.

**Discharge or disposal of effluent into lakes**

12. (1) A person shall not cause or permit the discharge or disposal of effluent into a lake unless the person is authorized under the Act to do so, or has been authorized to do so under any other written law before the day on which this policy is approved, and is acting in accordance with that authorization.

(2) Nothing in subclause (1) shall be taken as applying to, or in relation to, a substance that is applied to land for agricultural or forestry purposes and which enters a lake by a process of diffusion after having been applied to land for such a purpose.

**Construction or alteration of drainage system in lakes**

13. (1) A person shall not cause or permit the construction or alteration of any system for the drainage of water into or out of a lake unless —

- (a) the person is authorized under the Act or subclause (2) to do so, or has been authorized to do so under any other written law before the day on which this policy is approved, and is acting in accordance with that authorization; or
- (b) in the case of an alteration, the alteration is made in the course of and for the purpose of the general maintenance of an existing system for the drainage of water into or out of a lake.

(2) The Chief Executive Officer may, in the event of an emergency and, if there is a land conservation district committee established in the relevant district, upon the recommendation of that committee, authorize a person to construct a system for the drainage of water into or out of a lake subject to such conditions as the Chief Executive Officer thinks fit.

**Penalties**

14. A person who contravenes clause 10, 11, 12 (1) or 13 (1) commits an offence and is liable —

- (a) in the case of an individual, to a penalty not exceeding \$5 000 and if the offence is a continuing offence to a daily penalty not exceeding \$1 000; and
- (b) in the case of a body corporate to a penalty not exceeding \$10 000 and if the offence is a continuing offence to a daily penalty not exceeding \$2 000.

**SCHEDULE 1****AREA OF SWAN COASTAL PLAIN**

(Clause 3)

All that portion of land bounded by lines starting from the intersection of the High Water Mark of the Indian Ocean with the left bank of the Moore River and extending generally north-easterly upwards along that bank to its intersection with the summit line of the Gingin Scarp; thence generally south-easterly along that summit line to the summit line of the Darling Scarp; thence generally southerly along that summit line to the summit line of the Whicher Scarp; thence generally south-westerly, generally westerly and generally north-westerly along that line and onwards to the High Water Mark of the Indian Ocean aforesaid at Eagle Bay and thence generally easterly and generally northerly along that high water mark to the starting point, as delineated and shown bordered in black on Department of Land Administration Miscellaneous Plan 1815.

JIM MCGINTY, Minister for the Environment.