

# **Nature Conservation on Private Land: Commonwealth, State and Territory Legislation and Programs**

A report of the Working Group on Nature  
Conservation on Private Land prepared for the  
Australian and New Zealand Environment and  
Conservation Council, Standing Committee on  
Conservation

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*The front cover shows:*

*Top Photograph: Natural regeneration after fencing, north of Melbourne.*

*Centre photograph: Natural regeneration of River Red Gum near Wagga in south-east New South Wales.*

*Bottom photograph: Corridor site in Dongolocking, Western Australia.*

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# PREFACE

## Terms of reference

The Australian and New Zealand Environment and Conservation Council (ANZECC) is a forum for providing a coordinated national approach to nature conservation. The Working Group on Nature Conservation on Private Land was set up in 1994 under the auspices of ANZECC, to investigate voluntary nature conservation on private land.

The current terms of reference of the Working Group are to report to Standing Committee and Council on:

- (i) Current Commonwealth, State and Territory programs, including legislation, which are directed at nature conservation on private land;
- (ii) The effectiveness, including cost effectiveness, of these programs in delivering nature conservation objectives;
- (iii) Recommendations on ways of providing support to private landholders for enhancement of nature conservation on their land in terms of financial assistance, management advice, community awareness; and
- (iv) Recommendations for developing a coordinated approach across Australia to nature conservation on private land.

In carrying out these terms of reference, the Working Group has been instructed to take into consideration:

- (i) The relevant information being provided under the reporting provisions of the National Ecologically Sustainable Development Strategy;
- (ii) The objectives of the proposed Australian Vegetation Management Framework
- (iii) The relevant proposals being considered by the National Landcare Advisory Committee; and
- (iv) The suggestion put forward by the responsible Victorian Ministers that that State's Land for Wildlife program be used as a model for a coordinated approach to voluntary nature conservation on private land.

The Working Group has since been asked by to take into account the Department of Environment, Sport and Territories' consultancy on incentives, *Reimbursing the future: An evaluation of motivational, voluntary, price-based, property-right, and regulatory incentives for the conservation of biodiversity*.

This report, prepared by members of the Working Group, addresses items (i) and (ii) of the terms of reference of the Working Group and was first presented to the ANZECC Standing Committee on Conservation in October 1995.

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# 1 INTRODUCTION

Australia's urban development and rural landuses have, since European settlement, changed many natural ecosystems. Most of the remnant urban bushland occurs on public land, managed as part of the conservation reserve system or by local government. In contrast, large tracts of the remaining bushland in rural areas occur on private land or on Crown lease land. While some rural land has been managed sustainably, many other areas have become degraded, due in part to a lack of understanding about native vegetation management, the agricultural policies of earlier governments and also because many past decisions were affected by short term economic influences. Although many ecosystems are conserved within the protected area estate, others are not represented and only occur on privately managed land. As over two-thirds of Australia (approximately 500 million hectares) is managed by private landholders there is a need for a consistent and integrated approach to nature conservation on leasehold, freehold and crown lands (Commonwealth of Australia 1993).

It has become increasingly obvious that the protected area reserve system is not adequate if Australia is to retain current levels of biodiversity and meet its obligations under the Biodiversity Convention. The *National Strategy for the Conservation of Australia's Biological Diversity* (Commonwealth of Australia 1996) recognises the need for conservation of biodiversity on private land given that the threats to biodiversity extend across administrative and tenure boundaries. The Strategy notes the need for increasing the standards of management and protection and the levels of financial and technical assistance. The Strategy highlights the need for adequate, efficient and cost effective incentives to conserve biological diversity. Priority areas for action under the Strategy include those important for:

- migratory species;
- threatened indigenous species;
- remnant vegetation;
- wetlands; and
- corridors between protected areas.

The Strategy recognises the need to establish voluntary wildlife refuges and to negotiate conservation covenants and heritage agreements between owners, managers and governments, noting that sufficient resources, including trained facilitators, need to be provided on a regional basis to assist in the implementation scheme.

In addition to the *National Strategy for the Conservation of Australia's Biological Diversity* (Commonwealth of Australia 1996) a number of other documents have reflected the need for nature conservation on private land. The *National Strategy for Ecologically Sustainable Development* (Commonwealth of Australia 1992) encourages the voluntary protection of native vegetation remnants. Under this Strategy, the Commonwealth and State/Territory governments have agreed to encourage voluntary management of native vegetation remnants and to undertake cooperative development of a range of measures to better protect native vegetation on private land. The *Inter-Governmental Agreement on the Environment* (Governments of Australia 1992) also notes the need for protection of species and habitats outside of reserves.

The management of native vegetation on private land for nature conservation will help to retain biodiversity and protect habitats in the landscape. Many rural landholders and communities are becoming increasingly aware that protecting remnant vegetation and increasing the amount of natural or semi natural habitats on their farms can add to the long term economic viability of their farms through decreased soil erosion, conservation of water and biological pest control (Thackway & Stevenson 1989). However, the benefit of land protection measures accrue, not only to the landholder but also to the local community, other groups within the catchment and to the wider society.

The aim of this report is to provide summary information on the programs and legislation which can be used to conserve nature and wildlife throughout Australia.



## 2 BACKGROUND TO LEGISLATION AND MECHANISMS

### 2.1 INTRODUCTION

Mechanisms for nature conservation are based on either legal requirements, through common law or specific legislation, government policy, or landholder and community goodwill.

Mechanisms can be statutory, that is based on a legislation, or can be driven by rather looser arrangements such as policy documents. A range of mechanisms already exist to promote or control nature conservation on private land. These can be best categorised in terms of:

- mechanisms which are purely voluntary and non binding on either the present or future landholders;
- mechanisms which are voluntarily entered into but which are binding on present and future landholders;
- mechanisms which are binding through regulation; and
- mechanisms which provide assistance to the landholder to encourage nature conservation on private land.

There are, however, instances of cross compliance, where a mechanism to provide assistance becomes binding on the landholder. For example, an offer of funding for fencing being dependent on the landholder's acceptance of a covenant being placed over the property.

The legislative basis of various mechanisms is explained below.

### 2.2 COMMON LAW

Under common law, which has controlled land use in Australia in the past, private landholders have had the right to shape their own environments. Some rights, including those relating to subdivision and building on land, and to changes in land use, are now controlled by planning legislation, while the right to make management decisions remains with the land owner (Bates 1992).

Effective management of land is needed to sustain long-term productivity and natural ecosystems. Management actions such as chemical fertiliser use, pesticide use, poor tillage methods and clearing of native vegetation affect both natural and agricultural ecosystems within and beyond a property. In spite of the off-site effects, the right of the private landholder to effect such changes is regarded as sacrosanct at common law (Bates 1992). Bates (1992, p29) recognises that "the sound management of private land may have to be encouraged by law, either positively through the provision of assistance and the promotion of taxation incentives for beneficial land management practices such as attending to land degradation problems; or negatively, by restriction or tax disincentives on the over-use or negligent use of certain practices, such as vegetation clearance and pest control."

### 2.3 CONSERVATION EASEMENTS AND COVENANTS

There are generally two types of covenants - common law and statutory. Common law covenants are those where persons not in possession of a parcel of land may be able to exercise some legally enforceable rights over it. Generally these rights (easements and covenants) exist if they benefit

neighbouring property of the person seeking to enforce them. Easements commonly confer rights to do something on someone else's land, or can restrict the way in which a landowner can use the land. Covenants are generally restrictive (Bates 1992). In contrast, statutory covenants established under Acts of Parliament, can bind future owners irrespective of whether or not there is a benefit to a neighbouring property.

In Oregon in the USA, local governments and charitable institutions are able to acquire conservation easements limiting development in a certain area. The benefits of this are that local government conserves open space inexpensively and the local landholder reduces tax liability through severance of development rights. Financial incentives are at the heart of this method of preserving environmental quality and therefore application to conservation in Australia would probably depend on similar incentives (Bates 1992).

In Australia, agreements concerning land generally take the form of statutory covenants which restrict what a person may or may not do on the land in possession. Covenants may restrict development on the land and can only be enforced by and against current and future possessors of that land. They cannot affect parties who do not claim any proprietary interests (Bates 1992). Covenants have been a useful tool which enable various trusts (such as the National Trust) and State government departments (including those concerned with wildlife and heritage protection) to enter into agreements with private landholders to protect specific wildlife habitats and ecosystems. Covenants are attached to the land title and therefore bind future owners of the land, restricting use inconsistent with the purposes for which the covenant was taken. Heritage agreements entered into under legislation operate in a similar manner to covenants (Bates 1992). Unlike common law restrictive covenants the heritage agreement (also called conservation agreements) may contain either positive or negative obligations. For instance, most agreements will prohibit subdivision of the land subject to the agreement and all will require the landholder to manage the area having regard to the particular values of the land (Wells *et al* 1995).

## 2.4 LEASEHOLD LAND

Crown Land legislation provides the basis by which controls can be placed on the occupation of Crown lease lands. Under some leases, a form of environmental management is required of the occupants, which could include pest control, fencing, erosion control and other improvements. Leaseholders may also be subject to conditions relating to grazing management, clearing control, and frequency of cropping and cultivation. These controls are designed primarily to protect the economic viability of the land in production (Bates 1992), but may also provide environmental benefits.

## 2.5 STATE LEGISLATION

Legislation relating to nature conservation on private land varies from state to state but generally relates to five major areas - land clearing and land degradation, heritage agreements, nature conservation, planning controls and Crown Land leases.

## 3 COMMONWEALTH

### 3.1 INTRODUCTION

Under the Australian Constitution, primary responsibility for land and resource use lies with the State and Territory Governments. Therefore most nature conservation approaches, apart from those on Commonwealth land, are implemented under State and Territory legislation in the areas under their jurisdiction. The Commonwealth's major focus for nature conservation on private land is through the development of policies and strategies, cooperative management with the State/Territories and the provision of financial assistance. Generally Commonwealth financial assistance, for nature conservation on private land is provided through programs with specific objectives such as the National Landcare Program. The Commonwealth government also plays a significant role in information collection and dissemination through the Environmental Resources Information Network.

### 3.2 MAJOR PROGRAMS AND THEIR DELIVERY

#### **Management by Agreement**

Models for management by agreement include the management of biosphere reserves through trusts set up to represent Commonwealth, State/Territory and community interests. An example of this cooperative management is Calperum Station which, with other South Australian reserves and pastoral leases, forms the Bookmark Biosphere Reserve. This Reserve is managed cooperatively through the Murraylands Conservation Trust, on which the Commonwealth and South Australian Governments and the community are represented.

#### **Statutory Protection of Wildlife Habitat**

##### ***National Parks and Wildlife Conservation Act 1975***

The Act establishes the statutory office, Director of the National Parks and Wildlife, and the Australian National Parks and Wildlife Service (ANPWS) now known as the Australian Nature Conservation Agency (ANCA). The Act allows for the declaration of parks and reserves on land owned or leased by the Commonwealth, in Commonwealth waters and on certain areas of Aboriginal and Torres Strait Islander land leased to the Director. While there are no specific provisions relating to private land in the Act, provision is made for cooperation with Aboriginals and Torres Strait Islanders in management of their land. The Act also provides the legislative basis for ANCA's involvement with the States/Territories in cooperative nature conservation programs such as Save the Bush, a program aimed at conserving remnant vegetation and wildlife habitat on private land.

##### ***Endangered Species Protection Act 1992***

Some endangered species of plants and animals occur on private land. The *Endangered Species Protection Act 1992* which came into force on 30 April 1993 provides the legislative basis for Commonwealth responsibilities for the conservation of endangered species and the amelioration of processes which threaten them. The primary aim of the Endangered Species Program, set up under the Act and managed by ANCA, is to prevent further extinctions of Australian flora and fauna and to restore endangered species and ecological communities in the wild. State and Territory agencies are funded under the program to implement recovery plans for threatened flora and fauna on both public and private land.

### 3.3 OTHER RELEVANT ACTIVITIES

#### *Income Tax Assessment Act 1936*

Section 75d of the Commonwealth *Income Tax Assessment Act 1936* allows capital expenditure to be deducted where it is incurred primarily for the eradication of plant and animal pests or for preventing or combating land degradation. This deduction can include fencing costs if the purpose is to exclude domestic animals from areas affected by land degradation (Bates 1992). The use of these provision by private landholders will not only ameliorate land degradation but in some instances will also benefit wildlife and native vegetation, through protection or enhancement of habitat and through the decrease in competition by introduced species.

#### **Approaches to the use of incentives to conserve biodiversity**

The Biodiversity Unit of DEST has commissioned and published a report entitled *Reimbursing the Future: An evaluation of motivational, voluntary, price-based, property-right, and regulatory incentives for the conservation of biodiversity*. The study, produced by a consortium consisting of CSIRO, the Australian Centre for Environmental Law at the Australian National University and a private consultant, analyses a range of economic and social incentive measures to promote biodiversity conservation and encourage its ecologically sustainable use.

#### **Contract Employment Program for Aboriginals in Natural and Cultural Resource Management**

The Contract Employment Program for Aboriginals in Natural and Cultural Resource Management (CEPANCRM) promotes and encourages greater involvement in nature conservation by Aboriginal and Torres Strait Islander People. The program employs Aboriginal and Torres Strait Islander people on projects within and outside the protected area estate. Projects might relate to weed and feral animal control or rehabilitation of degraded land.

#### **Biodiversity Conservation Program**

In June 1995 a \$13 million, four year Biodiversity Conservation Program was established to assist implementation of the *National Strategy for the Conservation of Australia's Biological Diversity* (Commonwealth of Australia 1996) and fund international initiatives relating to the *Convention on Biological Diversity*. The major elements of the program are:

- integrated approaches to biodiversity conservation;
- improved knowledge of Australia's biodiversity;
- enhanced community involvement and understanding;
- a biodiversity monitoring program;
- support for the Biological Diversity Advisory Council; and
- international activities.

#### **Planning**

The *Interim Biogeographic Regionalisation of Australia* (Thackway & Cresswell 1995) provides a framework for the establishment of a National Reserve System. One of the primary goals of the National Reserves System is the conservation of biodiversity. This will be achieved on a regional scale by a range of management measures ranging from strict protected areas to off-reserve management measures, such as covenanting or cooperative management agreements.

In addition, the Commonwealth has begun work on implementing the objectives in the *National Strategy for the Conservation of Australia's Biological Diversity* (Commonwealth of Australia 1996) relating to bioregional planning. Bioregional planning will be addressed as a key issue in the development of integrated approaches under the Biodiversity Conservation Program.

## **Environmental Resources Information Network**

The Environmental Resources Information Network provides environmental information necessary for planning and decision making. Services provided include an information retrieval system which is available through a world wide network (the Internet). Landcare groups have access to this information through LandcareNet. Information available includes: flora and fauna database listings; environmental management plans; listings of workshops and conferences; environmental legislation; bibliographies and United Nations information, including Agenda 21.

## **3.4 ASSISTANCE**

The National Landcare Program (NLP) is the primary Commonwealth program for achieving sustainable management of natural resources. The NLP is an umbrella program which includes: the community grants components of the One Billion Trees (OBT) and Save the Bush (STB) Programs; Waterwatch; the Land and Water Program (L&W), managed by Department of Primary Industries and Energy; and the Natural Resources Management Strategy (NRMS) program, managed by the Murray-Darling Basin Commission. Of the NLP components STB and OBT are the major programs which relate to nature conservation, although the NRMS is also relevant.

### **Save the Bush**

The (STB) Program is designed to encourage, facilitate and support activities associated with the protection, management and study of remnant native vegetation. Its focus is on areas outside national parks and other reserves, which directly or indirectly contribute to the conservation of biological diversity in Australia. The program is administered by the ANCA and funds activities in four main areas:

- community and local government grants, designed to assist the community in activities to protect and manage native vegetation;
- funding to State/Territory government agencies to assist in the development and implementation of remnant native vegetation strategies. The funding is aimed at projects with a regional or state-wide context, and is complementary to funding under the community grants component, which has a local emphasis;
- funding for research projects relating to the maintenance of ecological processes and the maintenance and management of biodiversity in remnant native vegetation;
- education and public awareness projects designed to build community understanding and participation in remnant vegetation conservation issues.

### **Grasslands Ecology Program**

Native grasslands have been extensively cleared or modified for agricultural practices. Much of the remaining grassland, particularly in southern Australia, occurs on private land or along the sides of roads and railways lines and in old cemeteries. The Grasslands Ecology Program aims to raise community awareness and appreciation of the values of native grassy ecosystems and promote participation in the maintenance, rehabilitation and management of such systems on both public and private land.

### **One Billion Trees**

The OBT Program aims to encourage and empower the community through urban, regional and rural initiatives to strategically re-establish and maintain Australia's cover of native trees and associated vegetation in the interests of biodiversity conservation, ecological sustainability and mitigation of the greenhouse effect. Apart from achieving a minimum of one billion trees planted, sown or regenerated by the Year 2000, a major outcome will be a more informed and involved

community supporting native vegetation establishment and conservation. Greening Australia is contracted by ANCA to implement the OBT Program, providing assistance to landholders and community groups on revegetation projects. In addition, grants are available, through the NLP, to community groups for the planning, trialing and implementation of on ground works.

### **One Billion Trees enhancement - Urban Forests and Corridors Of Green**

The Greenhouse 21C statement was announced in March 1995. Included in that statement was a commitment to an Urban Forests Program, which is a significant initiative directed at conserving and establishing vegetation in the major urban areas of Australia. The enhancement also included a Corridors of Green component which would strategically enlarge and connect remaining patches of native vegetation and link these with new plantings. The aim of the projects in priority catchments of the States and Territories, is to develop partnerships within which government, community and business can strategically revegetate land on a regional basis in order that biodiversity and greenhouse objectives are met.

### **River Murray Corridor of Green Program**

The River Murray Corridor of Green (RMCOG) program is a four-year, \$3.1 million Federal Government program which aims to develop a network of vegetation corridors along the River Murray. It aims to help communities extend existing vegetation corridors along the river, rail lines, roadsides and ridge lines, and begin the process of linking them together. This network will help combat land degradation and loss of biological diversity. Greening Australia is contracted by ANCA to manage and implement the RMCOG Program.

### **Natural Resources Management Strategy Program**

The NRMS program addresses natural and cultural resource problems on a long term integrated basis within the Murray Darling Basin. Projects with an integrated catchment management focus assist community groups to carry out on-ground works and measures on both public and private land. The integration of vegetation retention and enhancement and good land management practices is aimed at restoring healthy ecosystems on a catchment wide basis.

### **Coastcare**

The Coastal Policy *Living on the Coast* was developed to ensure ecologically sustainable development and activities in the coastal zone. Funds are provided to support initiatives to manage marine and coastal areas in cooperation with State/Territory and local governments and the community. Although the focus of this program is on public land, initiatives on private land will be considered where there is a clearly demonstrable public benefit.

### **Cooperative Management Agreements for Wetlands of International Importance**

The National Wetlands Program is managed by ANCA. Project funds are available to develop cooperative management arrangements on private and public lands with Aboriginal and Torres Strait Islander communities, other landholders and local governments for sites listed in the *Directory of Important Wetlands in Australia* (ANCA 1996), especially those which would qualify as Wetlands of International Importance.

### **Other initiatives**

There are other regionally based programs such as the Wet Tropics Tree Planting Scheme and Cape York Peninsula Land Use Study which address nature conservation issues at the regional scale.

### 3.5 FUTURE DIRECTIONS

The Commonwealth Government's policy direction is being guided by two major policy documents *Reviving the Heartland* and *Saving Our Natural Heritage*. Included in those documents is a commitment to the National Vegetation Initiative (NVI). The NVI is a major vegetation protection and regeneration initiative which will build on existing programs such as One Billion Trees, Save the Bush and Corridors of Green and complement the National Landcare Program.

The initiative will have two key parts:

- revegetation of Australia's degraded lands with the goal of increasing the rate of revegetation up to an additional 250,000 hectares per annum (\$254 million over five years).
- a cooperative approach to protecting remnant native vegetation at risk from clearing (\$64 million over four years).

The Council for Sustainable Vegetation Management will be formed to advise on and oversee the NVI. During its first year of operation, potential Council activities include determining priorities and developing strategic directions. In broad terms, its role includes advising on:

- broad national goals for sustainable vegetation management;
- the state of the nation's vegetation and priorities for action;
- the appropriate division of responsibilities and cost sharing arrangements amongst the three tiers of government and landholders in addressing vegetation degradation;
- the most effective mix of program elements and incentives which eliminates unnecessary duplication, maximises community involvement and ensures desired outcomes for the NVI;
- integration of the NVI with relevant existing and new initiatives.

Other initiatives included in the policy direction outlined in *Reviving the Heartland* and *Saving Our Natural Heritage* include a commitment to taxation treatment of landcare works and further commitment to property management planning.

### 3.6 SUMMARY

The Commonwealth's main focus of nature conservation on private land is through provision of incentives and assistance to State/Territory and local governments, landholders and the community. The Commonwealth approach set out in *Reviving the Heartland* and *Saving Our Natural Heritage* signifies a significant commitment to nature conservation on private land. The Commonwealth's role in coordination of national approaches to nature conservation is demonstrated through initiatives such as the NLP, the *National Strategy for the Conservation of Australia's Biological Diversity* (Commonwealth of Australia 1996), bioregional planning and the National Vegetation Initiative.



## 4 AUSTRALIAN CAPITAL TERRITORY

### 4.1 INTRODUCTION

The Australian Capital Territory (ACT) is in a unique position in relation to nature conservation on private land given that it is the smallest Australian State/Territory, all land is leasehold and most rural lands are located close to a large urban population. Although 53% of the ACT is already within nature conservation reserves, there are significant ecosystems such as lowland temperate native grasslands and woodlands which are largely unreserved and occur on land leased for rural primary production purposes. The Commonwealth is also a significant landholder of undeveloped areas with nature conservation values.

It is the lowland areas close to the urban development which experience, and will continue to experience, the most pressure for further development and consequent disturbance. The demand for land for urban development has allowed few rural lessees secure long term tenure. This has discouraged some lessees from investing substantial time or money into long term improvements to land management practices, including nature conservation initiatives.

The ACT Department of Urban Services has responsibility for the environment, land planning, land release for development, rural leasing, agriculture, landcare, conservation and park management. The two main groups within the department involved in rural land management are Planning and Land Management, and City Services which includes the ACT Parks and Conservation Service.

### 4.2 MAJOR PROGRAMS AND THEIR DELIVERY

#### Property Management Agreements

Remnant vegetation and associated wildlife habitat on rural leasehold land in the ACT can be protected by conditions and controls in lease agreements. Rural lessees renewing or purchasing a lease are required to undertake a property survey covering the status of soil, vegetation, water, wildlife, pests and the productive potential of the land. They are then required to negotiate a Property Management Agreement (PMA) with the government to address the management of the elements identified in the survey. The PMA provides a mechanism for implementing management practices to protect native flora, fauna and ecological communities on rural lands.

#### Statutory Protection of Wildlife Habitat

The ACT *Nature Conservation Act 1980* protects native plants and animals and provides for the management of land reserved for nature conservation purposes. It establishes the office of conservator of Flora and Fauna and the ACT Parks and Conservation Service which administers the Act.

Native vegetation on unleased land is fully protected. On leased rural land, the occupant may damage or use native vegetation in the course of primary production activities that are consistent with the terms of occupancy. Removal of timber from the land is controlled. The Conservator of Flora and Fauna is empowered to issue directions to an occupier of land to protect or conserve native vegetation on the land.



The Minister may declare native species and ecological communities that are threatened with extinction, and ecologically threatening processes that require management. The Conservator is obliged to develop an action plan in response to each declaration, outlining conservation issues and proposing conservation measures. Action plans for threatened species may have implications for management of some rural leasehold lands.

Native species threatened with extinction may also be declared by the Conservator as having special protection status whereby strict controls on all activities affecting their conservation requirements become applicable.

Pest plants and animals that pose an environmental threat, particularly in terms of conservation of biodiversity, may be declared prohibited or controlled organisms to assist management of the threat.

### 4.3 OTHER RELEVANT ACTIVITIES

The *Land (Planning and Environment) Act 1991* is the primary land administration legislation. It establishes the Territory Plan which specifies primary land uses, including reservation for nature conservation and land which may be leased for rural purposes. Heritage provisions allow sites of particular natural significance within a lease to be identified and protected. Proposals for defined activities involving the clearing of remnant native vegetation of greater than 0.5 hectares are subject to a formal impact assessment process.

### 4.4 ASSISTANCE

The ACT Government provides funding to community groups through its Community Vegetation Management Program for activities associated with the assessment, protection and maintenance of native vegetation for landcare purposes. ACT Decade of Landcare funds have also been provided for vegetation management activities. Assistance is also provided through the Commonwealth's Save the Bush, One Billion Trees and National Landcare Programs.

### 4.5 FUTURE DIRECTIONS

The ACT Government is currently preparing a Nature Conservation Strategy. The Strategy will establish a framework for achieving long term conservation of biodiversity in the ACT. It will specifically address conservation of remnant vegetation on rural lands outside nature reserves and will explore such concepts as conservation covenants and an ACT Land for Nature scheme.

### 4.6 SUMMARY

Although legislation exists to protect native species within the ACT, the approach taken by the ACT Government to nature conservation on private leasehold land aims to be cooperative rather than regulatory, focussing on the development of Property Management Agreements.

## 5 NEW SOUTH WALES

### 5.1 INTRODUCTION

The major agency involved in nature conservation in New South Wales is the National Parks and Wildlife Service (NPWS). The Service was created in 1967 through the *National Parks and Wildlife Act*. The Service undertakes work both within and outside protected areas.

### 5.2 MAJOR PROGRAMS AND THEIR DELIVERY

#### Management by Agreement

A conservation agreement is a voluntary agreement between a landholder and the Minister administering the *National Parks and Wildlife Act* under section 69. Conservation Agreements can protect cultural heritage items, places or landscapes and aim to conserve the natural, cultural and/or scientific values of all or part of the land by agreed management. They can be entered into with the owners of private land or with a body administering leasehold land. The terms of each agreement are negotiated between the landholder and the National Parks and Wildlife Service. The terms may vary according to the specific conservation requirements of the land and the wishes of the landholder. Although the agreement is voluntary, once entered into it is registered on the title of the land, is legally enforceable and binds all future owners of the land. The Act was amended in 1987 to include conservation agreements, however, due to lack of funds and staff resources very few agreements have been entered into. In 1994, the NSW Government announced a substantial commitment to conservation agreements (\$400,000 per annum for 5 years) in recognition of the commitment that private landholders can make to natural and cultural heritage conservation. To date, nine agreements have been entered into and approximately 20 are being negotiated.

Another voluntary scheme available under the *National Parks and Wildlife Act* is the designation of wildlife refuges to promote wildlife conservation on land outside existing reserves. Landholders apply to the Service and if their application is approved management plans may be prepared by the Service in consultation with the landholder. The duration of the agreement is only whilst the existing landholder wishes and is non-binding. Revocation of the agreement is mutual at any time. Financial assistance for management of refuges may be provided, however, funds are scarce. There are currently over 500 refuges on properties covering approximately 2,250,000 hectares in NSW.

Wildlife Management Areas, set up under the National Parks and Wildlife Act are similar to Wildlife Refuges in that they are voluntary and non-binding, and are generally established for wildlife protection. They differ, however, as they are subject to a declared open season for specific game species (School of Forestry 1994).

#### Statutory Protection of Wildlife Habitat

New South Wales recently announced comprehensive controls on clearing through implementation of an Interim State Environment Planning Policy (SEPP) on land clearing. The controls are intended to protect vegetation while consultation with farmers and the community continues into how to best protect native vegetation in the long term, and how this can be incorporated into Total Catchment Management. The restrictions allow landholders to clear up to

two hectares per year and also allow some tree cutting for necessary farm purposes such as fencing and construction, maintenance of farm structures and firewood. Although the SEPP is primarily concerned with freehold land, the New South Wales Government has agreed that it will apply administratively (but not statutorily) to lands administered under the *Western Lands Act 1901* and to protected land under the *Soil Conservation Act 1938*.

Under the *Soil Conservation Act*, it is an offence to damage or destroy vegetation where land has been identified as Protected Lands on maps without the consent of Department of Land and Water Conservation (formerly Department of Conservation and Land Management). Protected land is land within a catchment area having a slope in excess of 18°, situated within 20 metres of a water course or environmentally sensitive lands (for example, protected native plants and animals, and Aboriginal sites). This land can include private land which has significant nature conservation values. As a matter of policy, the maps are prepared and placed on public exhibition for comment. The final maps are agreed to by the Minister for Land and Water Conservation and therefore the decision to map land as Protected Land is not a voluntary process. To date most of NSW has been covered by Protected Lands mapping of slopes greater than 18° or where land degradation is severe. The Department of Land and Water Conservation is in the process of updating these maps. However, no maps have been endorsed for gazettal where land has been mapped as environmentally sensitive for nature conservation purposes.

The *Crown Lands Act 1989* applies to Crown Land outside of the Western Division of NSW, which is managed under the *Western Lands Act*. The *Crown Lands Act* outlines the following principles of Crown Land management which needs to be considered when making decisions about the use of Crown Land:

- that environment protection principles be observed in relation to management and administration; and
- that natural resources are conserved wherever possible.

Although the legislation recognises the need, clauses such as "wherever possible" or "where appropriate" weaken the effect of the legislation (Farrier 1993). Provisions for control of clearing of vegetation exist over use of leasehold land, particularly in the Western Division, but the controls have been little enforced since the 1970's (School of Forestry 1994).

Under the *Threatened Species Conservation Act 1995*, a licence is required if an action is likely to result in damage to the habitat of a threatened plant or animal species, population or ecological community. A licence is not required if:

- an action is routine agricultural activity;
- an action is identified in, and carried out in accordance with a property management plan approved by the Director-General of National Parks and Wildlife; or
- following a strict assessment of its consequences as far as threatened species are concerned, an action is authorised under the *Environmental Planning and Assessment Act 1979*.

The *Threatened Species Conservation Act* also provides for the identification and declaration of critical habitat, defined as habitat that is critical to the survival of endangered species, populations or ecological communities. The Act prohibits the destruction of any area that has been declared as critical habitat without a prior approval based on the impact of the action.

### 5.3 OTHER RELEVANT ACTIVITIES

As the principal legislation concerned with land use planning, the *Environmental Planning and Assessment Act* has an important role to play in nature conservation. The Act is administered by

the Department of Urban Affairs and Planning and provides several mechanisms for conserving the natural environment including the preparation of environmental planning instruments. Two State Environmental Planning Policies administered by the Department are concerned specifically with the conservation of coastal wetlands and littoral rainforest. Some of these areas are on private land. State planning policies are binding on landholders. Consequently, they cannot be considered as voluntary mechanisms for conservation, although management of the lands in accordance with the policies' objectives are voluntary. The endangered fauna provisions of the Act can also assist in the conservation of endangered fauna on private land. However, this is normally achieved through development control mechanisms and environmental planning instruments rather than solely on a voluntary basis. When a development does not need consent under the *Environment Planning and Assessment Act*, the *Local Government Act 1919* requires tree preservation to be considered where building or subdivision is to take place (Bates 1992).

The *Catchment Management Act 1989* establishes a structure and process for the community and government to work together to achieve sustainable resource management. It aims for the coordinated and sustainable use and management of land, water, vegetation and other natural resources on a catchment basis so as to balance resource utilisation and conservation and promotes action through local groups and individuals. Some Catchment Management Committees and Trusts include representatives of nature conservation interests. The concept of Total Catchment Management (TCM) provides a framework through which the State Landcare program operates as all funding applications are passed through Catchment Management Committees. Through TCM policies and the landcare ethic the role of voluntary nature conservation on private land is promoted and encouraged by both agency and non-government nature conservation organisations.

The *Environmental Restoration and Rehabilitation Trust Act 1990* establishes a Trust which provides grants to support projects which, among other things, reduce environmental degradation of any kind (Bates 1992).

The *Heritage Act 1977* can be used to provide protection to natural areas considered items of environmental heritage, with the Minister's approval (Childs 1989).

The *Rivers and Foreshores Improvement Act 1948* restricts the removal of native vegetation in the beds and on the banks of watercourses and prohibits the obstruction, division and excavation of watercourses (Bates 1992).

The *Wilderness Act 1987* provides a range of powers to identify, assess and manage wilderness areas. There is provision for the protection of wilderness values on private land through conservation agreements and similar arrangements provided the landholder agrees. No such agreements have been put in place to date.

## 5.4 ASSISTANCE

The Service, together with Department of Land and Water Conservation and NSW Agriculture, is involved in the Farming for the Future program funded by the Federal Government. Three officers are employed by the Service as field officers to assist landholders and agency staff to integrate physical, social and financial planning at the farm level. Nature conservation on farms is being promoted primarily through workshops but also by field days, site visits, through landcare programs, written information and media.

In addition, the Service works to assist in the coordination of the federally funded, Save the Bush Program by assisting landcare groups and others to protect and manage remnant vegetation. A remnant vegetation officer has also been funded by the Murray Darling Basin Commission in North West NSW to assist and advise landholders on remnant vegetation protection and management. All these programs are Federally funded and the Service assists by allocating funds to cover basic operating costs such as use of vehicles, office accommodation, facilities and equipment.

Other programs are run by Greening Australia (extension, demonstration projects, revegetation) and through Landcare groups which are supported by the Department of Land and Water Conservation.

## 5.5 FUTURE DIRECTIONS

The NPWS is undertaking a restructure where voluntary nature conservation is receiving a high priority. Five full time positions are to be established (two conservation agreement officers, two wildlife refuge officers and one landcare officer) in the Environmental Protection Unit in Head Office. Additionally, the Service continues to support the Farming for the Future, Landcare and Save the Bush Programs.

## 5.6 SUMMARY

New South Wales is entering an exciting era where voluntary nature conservation on private land is recognised as a major program to achieve biodiversity conservation. The main voluntary mechanisms are through Conservation Agreements and Wildlife Refuges under the *National Parks and Wildlife Act* and other Acts also have a role. Federally funded programs such as Save the Bush and Farming for the Future are also greatly assisting in getting the nature conservation message across to private landholders.

The recent introduction of clearing controls in New South Wales will provide better protection for remnant vegetation. The operation of the policy will be monitored and reviewed over the next 12 -18 months to determine how effective the process has been and to consider long-term measures to achieve protection and management of native vegetation through Total Catchment Management. Economic incentives may assist to curb the amount of area being cleared on fragmented areas, however, these mechanisms are still being reviewed by the Commonwealth (CSIRO and ANCA) and NSW (NPWS). Other constraints relate to the employment status of existing extension staff, five of whom are temporary and subject to continuation of funding from the Commonwealth. This hinders long term planning and creates a tenuous situation for staff and programs. Another constraint is that there is a need for further research linking the values of nature conservation to productive sustainable agriculture.

In conclusion, the most significant legislation in NSW is the *National Parks and Wildlife Act's* provisions for conservation agreements and wildlife refuges as they are both voluntary and aimed primarily to encourage nature conservation on private land.

## 6 NORTHERN TERRITORY

### 6.1 INTRODUCTION

The opportunities and challenges facing nature conservation in the Northern Territory differ fundamentally from those facing the more densely settled jurisdictions in other areas of Australia. The problems in the Northern Territory relate to management of the diffuse influences on the ecological function and biological diversity of vast areas of virtually unmodified habitat rather than problems that have arisen through clearing for agriculture and urban development, leaving small patches of remnant ecosystems surrounded by a matrix of urban or agricultural land. Solutions applicable to the agricultural lands of south-eastern Australia may have limited or no relevance to much of the Northern Territory at this stage of its development. Moreover, those ecological differences are accompanied by great differences in culture and traditions of land use. For example, one of the largest single classes of land tenure in the Northern Territory (41.2% by area) comprises Aboriginal land. Many Aboriginal people retain strong links to the land and its wildlife and so bring to bear a view of land management and resource use that differs significantly from their non-Aboriginal neighbours. Recognition of these factors and, in particular, the huge spatial scale at which conservation programs will need to operate to be effective, has shaped existing programs and developing initiatives.

In the short discussion to follow emphasis is given to the potential to deliver long term conservation benefits rather than to assess immediate cost effectiveness. In many cases such analysis would be futile because the arrangements described have most often been implemented as preventative rather than corrective measures, often in locations where there is currently no evidence of decline in biological diversity.

### 6.2 MAJOR PROGRAMS AND THEIR DELIVERY

The Parks and Wildlife Commission of the Northern Territory is the principal agency for the delivery of services related to wildlife conservation in the Northern Territory as it manages all parks and reserves declared under Northern Territory legislation. Other important roles are played by the Department of Lands, Planning and Environment, which administers a range of legislation relevant to land management and hence habitat protection, and such programs as Landcare.

#### **Management by Agreement**

In addition to provisions such as Heritage Agreements, other mechanisms exist for achieving conservation objectives with the active involvement and agreement of private landholders.

Legally binding agreements with landholders may be entered into under Sections 73 (Aboriginal Land) and Section 74 (non-Aboriginal freehold or leasehold land) of the *Territory Parks and Wildlife Conservation Act 1993*. While binding once entered, such agreements are by definition voluntary in that they involve two parties entering into written agreements, and are arrived at by a process of negotiation which may often involve some advantage to the landholder. Incentives for landholders have included payment by Government for fencing of sites, which may simplify pastoral management, access to other lands where grazing is less threatening to conservation values, or (potentially) direct payment to landholders to compensate for the loss of production that may result from constraints on access or use. The two agreements entered into to date,

covering a total area of 11,000 hectares, were designed to protect waterbird habitat and involved no payment to landholders.

Looser arrangements may be made with the principal aim of establishing consultative mechanisms for the management of important areas. Section 25 of the *Conservation Commission Act 1980* authorises the Conservation Commission to enter into formal agreements with any party to promote the Act's conservation objectives. An example is the Bauhinia Downs agreement which established the Jandanku Conservation Committee. The area of the Bauhinia Downs pastoral lease all but bisects the area proposed for a major National Park and is known to support valuable conservation assets. However, their management needs are as yet too poorly defined to permit implementation of explicit joint management arrangements. The Aboriginal owners of the site are strongly committed to the development of a viable and sustainable pastoral enterprise, and regard this as their primary objective. Accordingly this agreement does not seek alteration of tenure or closure of management options available to the owners, but rather establishes a consultative process to develop joint conservation plans for biologically important parts of the property. Similar agreements have been reached at other sites which principally involve the provision of extension services by the Conservation Commission.

### **Statutory Protection of Wildlife Habitat**

The formal reserves system, for which sites are acquired and managed under the *Territory Parks and Wildlife Conservation Act*, is the best recognised and funded mechanism for offering protection to wildlife habitats for the maintenance of biological diversity.

But in addition to sites managed entirely by Government, unique arrangements have also been made that involve local communities and landholders in management of protected areas. For example, when land including the (then) Katherine Gorge National Park was vested in the Jawoyn Aboriginal Land Trust under the *Aboriginal Land Rights (Northern Territory) Act 1976*, the *Nitmiluk (Katherine Gorge) National Park Act 1989* was enacted to provide for management of the Park area by a Board comprising a majority of Aboriginal people. The Board's functions include preparation of management plans, protection of customary rights of use and occupation, and cultural heritage protection. Gurig National Park (Coburg Peninsula) is also held by Aboriginal people under inalienable freehold title and managed by a Board comprising an effective majority of traditional owners, as specified in the *Cobourg Peninsula Aboriginal Land and Sanctuary Act 1981*.

Such joint management arrangements, involving financial and technical support by Government on lands held by members of the community, are likely to become an increasingly important component of the conservation landscape of the Northern Territory and elsewhere in Australia. These arrangements are voluntary in the sense that, although operations are ultimately governed by legislation, they were established by processes of negotiation that recognises ownership by, and continued involvement of, traditional custodians in the management process.

The capacity exists under Section 22 of the *Territory Parks and Wildlife Conservation Act* to declare an area of private land as a protected area, and to proscribe specified actions. To date it has not proved necessary to use these provisions widely to resolve specific conservation issues, but it has been used to declare buffer zones around major roads within which wildlife is totally protected, including those species that would otherwise be subject to declared hunting seasons or may be taken in other ways.



The *Heritage Conservation Act 1991* provides a capacity to deal with conservation issues arising at, and resolvable within, a range of spatial scales. It provides for declaration of sites for either natural or cultural heritage values. Most often these will protect discrete built or natural features, but the capacity exists to protect larger landscape units. Interim Heritage Conservation Orders may be used to provide immediate protection to a site that appears to face an imminent threat. A Conservation Management Plan developed under Section 30 of the Act may impose long term management obligations on the landholder. Alternatively, a landholder can choose to enter into a Heritage Agreement as provided under Section 36 of the Act. Both Conservation Management Plans and Heritage Agreements automatically continue with any change in land title.

The Heritage Conservation Act has considerable potential as a mechanism to promote off-reserve conservation objectives at smaller readily delineated sites, but due to its recent introduction, has been infrequently applied to sites to protect natural values. Of approximately sixty places listed to date, two have been declared primarily for natural values, but more are under consideration.

### 6.3 OTHER RELEVANT ACTIVITIES

A number of other Government activities and their enabling legislation also offer important possibilities for off-reserve conservation. These include:

#### *Pastoral Lands Act 1992*

This legislation implements arrangements to monitor the condition of pastoral land with the aim of ensuring sustainable use. Maintenance of biological diversity is incorporated in definitions of sustainability. While the Act includes no specific incentives for wildlife conservation, continuation of leases is dependent on meeting a range of conditions. These include seeking the approval of the Pastoral Lands Board to clear native vegetation for purposes other than infrastructure development (fences and buildings). Approvals are subject to guidelines which include avoidance of fragile soils or slopes and adoption of other measures designed to avoid soil loss, and retention of buffer strips around drainage lines. At the broad scale, land clearing is presently too limited (0.26% of woodland and forest communities) to represent a significant threat to conservation of the Territory's biological diversity. The processes built into the *Pastoral Lands Act* are particularly important because these lands contain more than 48% of the Territory's wildlife habitats.

#### *Environmental Assessment Act 1980*

This Act provides for the assessment and application of management conditions to sites subject to changed land use. Protection of biological diversity is an important consideration in assessments.

#### *Planning Act 1979*

The Act establishes the Planning Authority as the consent authority for the use and development of land. It has a potentially important role in promoting the retention of green space and wildlife habitat in urban and semi-rural settings.

#### *Soil Conservation and Land Utilisation Act 1985*

The Act provides for the issue of soil conservation orders to overcome poor management practice and declaration of erosion hazard areas where a known threat of soil erosion exists under current land use. They may be issued with or without the agreement of the landholder and the Act includes financial assistance to a landholder to prevent or overcome problems.



### ***Crown Lands Act 1992***

This Act includes provisions to regulate harvest of any vegetation for commercial purposes. There is some overlap with provisions for the protection of individual plant species under the *Territory Parks and Wildlife Conservation Act*, and a review of that legislation is currently underway. It is proposed that all such provisions be consolidated in the *Territory Parks and Wildlife Conservation Act*.

### ***Bushfires Act 1986***

As indicated earlier, processes operating at a landscape scale are among the greatest threats to biological diversity in the Northern Territory. One of these is fire. The Bushfires Council is a community-based organisation with a role to manage fire in natural and rural landscapes. It is acutely aware of its role in protecting biodiversity and seeks continued improvement in the scientific basis for its operations to incorporate understanding of the impacts of managed fire regimes on wildlife and to ensure that related information is made available to landholders. The manner in which pastoral landholders use fire to achieve production objectives will strongly influence the capacity of their lands to sustain native vegetation and animals. The legislative and administrative structures are designed to ensure community involvement and provide for both prescribed burning and Aboriginal traditional practice.

## **6.4 ASSISTANCE**

The National Landcare Program funds programs directed at native conservation on private or Aboriginal leasehold lands. A Landcare Northern Territory Management Committee oversees the strategic directions and allocation of funds under the National Landcare Program. The committee is made up of thirteen people representing regional landcare groups, government agencies, environmental organisations, local government and Aboriginal organisations. They meet three times a year to review programs, promote awareness and assess funding submissions.

## **6.5 FUTURE DIRECTIONS**

The Northern Territory has extraordinary opportunities to achieve conservation outcomes denied many other jurisdictions. The option to develop a comprehensive, adequate and representative reserve system remains achievable. Yet it is recognised that the formal protected lands system, no matter how well selected and managed, will always occupy a fraction of the total landscape and hence fail to capture and protect the whole of the Territory's biological diversity.

The Northern Territory summarised its approach to the integration of an improved reserve system with off-reserve conservation measures in a submission (dated August 1992) to the House of Representatives Standing Committee on the Environment, Recreation and the Arts (HORSCERA) in response to its Inquiry into the Role of Protected Areas in protection of biological diversity. That submission recognised the need for an integrated approach that incorporated a complete kit of conservation tools, including incentives for voluntary conservation actions on privately-managed lands. To advance that vision, the Territory is taking a number of steps additional to those more routine actions outlined above.

### **The Greater Parks Concept**

In its submission to HORSCERA, the Northern Territory proposed that important parks and reserves should be offered enhanced protection by also developing conservation plans and cooperative arrangements with surrounding landholders. That concept is being actively pursued with the development of plans such as those for the Greater Kakadu Region in the Top End.

Negotiations are at an early stage and hence proposals have yet to be finalised and submitted to Government, but the central aim will be to reach agreement with neighbouring landholders regarding management of adjacent sites and to offer an active role in management of the parks themselves. Incentives to maintain high standards of conservation management on private (mainly Aboriginal) lands abutting parks and reserves will include the development of direct employment opportunities, or preference in contracts let for park maintenance and tour or other concessions.

If successful, these arrangements will, in the Top End, culminate in a delineation of a huge conservation region (5,560,700 hectares) encompassing and linking the Top End's three major national parks (Gurig, Kakadu and Nitmiluk). Similar proposals are being considered for central Australia. In each case the intent will be to ensure that regional stakeholders are involved in the management process and are primary beneficiaries of commercial (especially tourism) opportunities that arise in connection with these initiatives.

### **The Dhimurru Model - Exchanging Expertise**

The Dhimurru Land Management Association in Eastern Arnhem land has sought the involvement of the Conservation Commission in initiatives to enhance management of Aboriginal lands in the Cape Arnhem area. Under an agreement likely to be executed shortly, the Northern Territory will locate three staff with wildlife and park management skills in the region to work directly with the Association and its staff. There is currently no intention to designate the area formally as a reserve but rather to supplement the traditional management skills of the owners with training to meet new challenges. These challenges arise from an increasing recreational and tourism use of the area, especially by residents of the mining township of Nhulunbuy. Rather than being economically-based, the incentive for landholders in this instance is an enhanced capacity to manage the land so that it continues to satisfy the community's subsistence and cultural needs. Specific programs already underway include crocodile and marine turtle management. Total government expenditure on this initiative will exceed \$300,000 per annum. Conservation Commission staff involved in these programs will benefit from exposure to traditional Aboriginal knowledge and management skills.

### **Wildlife Utilisation**

Under Section 122 of the *Territory Parks and Wildlife Conservation Act* Aboriginal people may take native flora and fauna for subsistence and ceremonial purposes both outside and within protected areas, but may not trade in wildlife products. A number of communities have sought to develop commercial opportunities involving the taking of wildlife including crocodiles, macropods and waterfowl. Such initiatives may serve community aspirations for improved standards of living and self-reliance, while returning positive conservation benefits. Communities deriving a substantial income from sustainable exploitation of wildlife products may be less inclined to seek alternative land uses such as agriculture that require destruction or degradation of wildlife habitats.

The Conservation Commission is currently exploring a range of possibilities that appear to have the potential to act as significant economic incentives for retention of natural habitats on both Aboriginal and non-Aboriginal land.

### **Legislative Review**

Legislation dealing with the management of land and natural resources, including the *Crown Lands Act*, *Soil Conservation and Land Utilisation Act*, and the *Territory Parks and Wildlife Conservation Act*, is currently under review with the aim to simplify administration and improve effectiveness. These changes will build on the major shift in emphasis implemented through the *Pastoral Lands Act*, which implemented a move from development covenants to a requirement for careful stewardship. Consideration will be given to mechanisms that allow by-laws promulgated

under the *Territory Parks and Wildlife Conservation Act* to have application on private land without that land being formally recognised as a reserve.

Incorporation of explicit incentives for conservation actions on private land is another important focus of the current review. The Northern Territory will examine all of the options identified by the Commonwealth and ANZECC working groups, and select those mechanisms that are most applicable to its circumstances and best complement the range of initiatives already taken.

### **Bio-regional Planning**

In order to ensure that an appropriate mix of conservation strategies is applied at the landscape level, the Conservation Commission will adopt a system of conservation planning, based on the biogeographic regions summarised in the *Interim Biogeographical Regionalisation of Australia* (Thackway & Cresswell 1995). The regional nature conservation plans so derived will constitute the Commission's input to regional land use plans. Each of those plans will canvass options to involve the local community in conservation actions and take account of all legislative and administrative instruments available to achieve this, including financial or other incentives needed to encourage high standards of management of important sites or systems. This process will be greatly enhanced by the participation of all of the Northern Territory government agencies with responsibility for land and natural resource management in the new Cooperative Research Centre for Sustainable Development of Tropical Savannas. That Centre provides a vehicle for the involvement of industry groups and community representatives in setting research directions, and establishing educational and training programs to achieve the goals of ecologically sustainable development.

## **6.6 SUMMARY**

The Northern Territory is eager to contribute to the development of a range of incentives for improved nature conservation on privately-managed lands, because it is only by combining such measures with more traditional activities that the aim of the *National Strategy for the Conservation of Australia's Biological Diversity* (Commonwealth of Australia 1996) can be realised. However, it is equally determined to avoid the distortion of regionally appropriate programs that may result from uncritical substitution of new measures, simply because they have proved useful in other jurisdictions. Rather than a search for a single 'best' national solution, the Territory seeks recognition of the need for mixed strategies that are sensitive to regional variation in conservation needs and the prevailing culture. It is imperative that any funding programs deriving from consideration of these issues not be hampered by narrow qualifying criteria that may impede programs designed to prevent the emergence of problems rather than correct entrenched and intractable difficulties. In northern Australia generally such broad-scale preventative measures are likely to return the greatest long-term conservation benefits.

## 7 QUEENSLAND

### 7.1 INTRODUCTION

At present approximately only 52% of natural ecosystem types and 3.7% of Queensland is represented within protected areas. Sole reliance on national parks to conserve biodiversity is likely to mean that important native plant and animal communities could be lost (Cooperrider in Wells *et al* 1995). Therefore it is imperative that conservation on private land be seen as an important part of the conservation estate.

The primary act relating to nature conservation in Queensland is the *Nature Conservation Act 1992* managed by the Queensland Department of Environment (QDoE), and is the culmination of a major revision and consolidation of the legislation that commenced at the beginning of the decade. The Act repeals the *Native Plants Protection Act 1930*, the *Fauna Conservation Act 1974* and the *National Parks and Wildlife Act 1975* and amends part of the *Land Act 1962*. The Act gives a legislative basis for the first time in Queensland for the protection of habitat outside national parks and marine parks and reserves. The *Nature Conservation Act* enables landholders to make formal commitments to protect all or certain components of the natural resources of their land or to manage the exploitation of such resources so that nature conservation values are maintained or enhanced (Wells *et al* 1995).

### 7.2 MAJOR PROGRAMS AND THEIR DELIVERY

#### Management by agreement

The *Nature Conservation Act 1992* provides a legislative basis for the protection of habitat outside national parks and similar reserves as it allows for the Minister to enter into agreements with landholders (Wells *et al* 1995). A Conservation Agreement is a contract between the Minister for Environment and Heritage on behalf of the State and the landholder which outlines those activities that are permitted or prohibited and any financial arrangements that may be involved. Agreements can vary depending on the management needs of the particular area, for example, they may be comprehensive or simply be directed at protecting a particular species of wildlife. A Conservation Agreement can be of fixed duration or can be permanent and registered on the land title (Wells *et al* 1995).

Under the Act, a Nature Refuge may be declared over land of any size or tenure providing that it is subject to a Conservation Agreement or covenant (apart from Crown Land), which can be linked to the land title (School of Forestry 1994, Wells *et al* 1995). Part or all of a property may be included in the declaration, and management responsibility and ownership remains with the landholder (Wells *et al* 1995). The Act requires the Minister to be satisfied that an area should be declared a Nature Refuge because of its significant natural features. While there are no automatic financial benefits associated with the declaration of a Nature Refuge, the *Local Government Act 1993*, enables local governments to provide rate relief to landholders at their discretion (Wells *et al* 1995). Nature Refuges are set up under a Conservation Agreement, with assistance given by the Queensland Department of Environment restricted at present to fencing and management advice. Criteria for establishing a Nature Refuge are:

- the conservation status of regional vegetation types located on the property;
- the existence of rare or threatened wildlife and critical habitat;

- the function of the area in the broader landscape (for example, corridor links to other remnants); and
- characteristic features of a social, natural, or other type.

Coordinated Conservation Areas may be declared or established over two or more properties under different ownership or control on which there are natural resources that require cooperative management by the various landholders. For example, fire may be managed by the various landholders to enhance the habitat for a particular species. In this type of arrangement, each landholder must sign a Conservation Agreement with the Minister for Environment.

#### Statutory protection of wildlife habitat

The *Nature Conservation Act* has provisions relating to protected plant species. There is a requirement for landholders to demonstrate to State agencies that the removal of protected plants does not constitute a significant threat to the survival of the local population of species in the wild (Siepen 1995). The Minister can adopt conservation plans for protected plants and animals. A conservation plan can identify areas of land as either a "critical habitat" or an "area of major interest". In such areas particular controls on the destruction or alteration of habitat would operate. In addition, where there was any inconsistency, the conservation plan provisions would override a local government planning scheme in force for the area. A landholder may be entitled to compensation because of the restrictions contained in a conservation plan.

There are few legislative provisions relating to clearing on freehold land apart from the *Environment Protection Act 1994* which requires that all reasonable and practical steps are taken to minimise damage to the environment. Local governments may adopt tree preservation local laws or other kinds of vegetation protection schemes. The *Land Act 1994*, relating to leasehold and other State lands, occupying about 79% of Queensland, asks that a broad range of issues be considered in the granting of permits to clear trees. Issues which need to be addressed include:

- the protection of restricted vegetation types and areas of high nature conservation value, particularly riparian lands and areas of heritage values; and
- the protection of lands vulnerable to degradation.

The Queensland government recently released the *Preliminary tree clearing policy for leasehold and other State lands in Queensland*. This policy provides a framework for the development of local tree-clearing guidelines which are intended to reflect local circumstances and environmental concerns. Clearing should therefore be managed to maintain long term sustainability of agricultural activities and to minimise impact on environmental values (Siepen 1995). In addition, permits are required to clear within watercourses under the *Water Resources Act 1989*.

### 7.3 OTHER RELEVANT ACTIVITIES

The *Soil Conservation Act 1986* introduces the concept of approved plans for soil conservation objectives. The owner of land can ask for approval of a property plan which describes measures to be adopted to promote soil conservation objectives. Project area plans specify the measures to be undertaken in specific districts (Bates 1992). These plans could incorporate vegetation retention measures.

Under related programs, the Sugar Industry Infrastructure Package requires conservation issues to be considered as a condition of funding, while the South-West Strategy includes a program to implement off-park nature conservation strategies. NatureSearch is a program designed to gather wildlife information with the help of local naturalists in the south-east of Queensland and the northern cities of Townsville-Thuringowa. The program promotes a network between naturalists,

scientists and government. The collected information is made available to local governments and the community generally.

## 7.4 ASSISTANCE

There have been some attempts to incorporate native vegetation conservation in the process of property management planning through *Property Planning Modules for Nature Conservation* which are being developed to provide landholders with information and tools to incorporate nature conservation into property planning. Modules will be available through a number of property management planning workshops. The titles of the modules are:

- Basic principles of nature conservation;
- Natural resource inventory;
- Assessing the condition of remnant vegetation;
- Wetlands;
- Fire;
- Sugar;
- Weeds; and
- *Nature Conservation Act 1992*.

Incentives for nature conservation activities on rateable land are available under the *Local Government Act 1993*. All land in Queensland is rateable other than:

- un-allocated State land;
- land occupied by the State or a government entity (apart from land leased to private individuals or companies)
- land in State Forest or Timber Reserve (other than land occupied under a permit or lease);
- certain Aboriginal and Torres Strait Islander lands; and
- land exempted under an Act, or by a regulation made under the *Local Government Act 1993*.

Under this provision a regulation could, for example, exempt land in a particular Nature Refuge, certain specified Nature Refuges or all Nature Refuges, from rates.

Local government may set up and levy their rates in one of two different ways:

- an ordinary general rate; or
- a differential general rate.

The differential general rate allows a local government to categorise land in its area and these categories may be defined in any way at all, including a category for nature conservation. The purpose of the differential rate is to allow a different level rating to be set for different categories.

The third way in which the occupiers of lands held for nature conservation activities could benefit is through the concession power. A local government can remit the whole or part of unpaid rates if:

- the circumstances of a particular case warrant the making of a remission; or
- the case falls within a class of cases that the local government had identified by resolution as warranting a remission of rates.

The Act, by way of example, lists circumstances or factors which may justify the making of a remission including: the preservation, restoration or maintenance of structure or places of cultural, environmental, historic, heritage or scientific significance to the local government area.

In conclusion, a landholder could obtain rate relief:

- under an exemption under a regulation; or
- under a differential rating scheme; or
- through a remission of rates.

## 7.5 FUTURE DIRECTIONS

The *Preliminary tree clearing policy for broadscale clearing on leasehold and other State lands in Queensland* are intended to be refined and should incorporate further detail through the development of local guidelines. Local guidelines will be developed, in the various regions where tree clearing is an issue, involving 38 working groups with a full range of stakeholder interests. The process for this is provided for under the *Land Act 1994* and through a Memorandum of Agreement signed between the Department of Lands, Department of Primary Industries and Environment and Heritage.

The local guidelines process is fundamentally important as it will provide the additional detail which cannot be given in Statewide policy. It is proposed that this detail should address the environmental constraints that apply to ecologically sustainable development, particularly in the more marginal parts of the State. In addition, the status of many land types or ecosystem types needs to be considered to ensure that those that are now threatened are not completely cleared so that they become extinct.

A draft *State planning policy on nature conservation*, made under the *Local Government (Planning and Environment) Act 1990*, is currently in development. The policy aims to integrate nature conservation into planning schemes and development approvals. The policy is a cooperative initiative between the Queensland Department of Environment and the Department of Local Government and Planning.

The Queensland Department of Environment has begun to address the lack of extension programs with the proposed appointment of extension officers in each of its five regions in 1996. In addition, the NatureSearch program, which currently covers the South-East and Townsville-Thuringowa regions, will be expanded to cover the remainder of Queensland.

## 7.6 SUMMARY

One of the major problems in Queensland is the lack of extensive education and extension programs by either the QDoE or key non-government organisations. Until rural landholders understand ecologically sustainable development and the benefits of conserving remnants, opposition to controls on clearing will remain. Until that awareness is raised and landholders want to retain native vegetation for its own benefit there is a need for financial incentives or other assistance to be provided (Siepen 1995).



## 8 SOUTH AUSTRALIA

### 8.1 INTRODUCTION

The Department of Environment and Natural Resources (DENR) is the major agency with responsibility for nature conservation in South Australia. The *National Parks and Wildlife Act 1972*, managed by DENR, provides for the conservation of wildlife on private land, as well as for the establishment of reserves for public benefit and enjoyment. South Australia has, in the main, adopted a legislative approach to nature conservation on private land, through controls on land clearing.

### 8.2 MAJOR PROGRAMS AND THEIR DELIVERY

#### Management by Agreement

Provision for legal protection of native vegetation on private land began with a voluntary Heritage Agreement scheme put in place in 1980. This scheme was only marginally successful as, although 120 agreements were made in the subsequent three years, most were for small areas of bush (less than 30 hectares) and clearing continued at about 40,000 hectares per year. A Heritage Agreement is a voluntarily entered legally binding agreement between the State Government and the owner of a specified area of land covered by native vegetation, giving the area permanent protection for conservation of the vegetation and its wildlife. Any activities which may occur on the land are specified in the agreement. Heritage Agreements are usually, but not always, linked to an application to clear land and therefore can also be entered into on a voluntary basis at the request of the landholder, subject to assessment by the Native Vegetation Council. Money is provided through the Native Vegetation Fund for management and fencing of areas protected under the Heritage Agreement Scheme. The landholder who signs a Heritage Agreement may be released from rates and taxes on that land. Heritage Agreements became successful in ensuring native vegetation retention when the scheme was linked to legislation relating to broadscale clearing. Currently there are over 900 Heritage Agreements in South Australia covering 600,000 hectares. Over \$75 million has been allocated to the program over the last ten years.

#### Statutory Protection of Wildlife Habitat

Controls on clearing native vegetation were first introduced in 1983, through regulations under the *Planning Act 1982*. Under this Act approval to clear in rural areas was given by the State Planning Commission. Difficulties with this Act led to legislation aimed specifically at controlling land clearance, the *Native Vegetation Management Act 1985*, which set up the Native Vegetation Authority to make decisions on applications to clear native vegetation. Under this Act, if landholders were refused permission to clear they were encouraged to enter into a Heritage Agreement under the South Australian *Heritage Act 1978*. When Heritage Agreements were entered into, landholders were entitled to the cost of fencing the area and to what was termed "financial assistance" which was, in effect, compensation. The sum payable was calculated in accordance with a formula set out under the Act. Financial assistance included a capital sum which excluded income foregone and which amounted to the difference between the value of the uncleared productive land and the value of the non-productive land. Valuation was undertaken by the Valuer General (Collins 1995).



The *Native Vegetation Management Act* was replaced by the *Native Vegetation Act 1991* due to problems of landholders applying for consent to clear in the belief that consent would not be granted and that they would receive compensation. The *Native Vegetation Act* provided the basis for setting up the Native Vegetation Council which is responsible for making decisions relating to the conservation and clearance of native vegetation. Seven members comprise the Council with representatives from the South Australian Farmers Federation, the Local Government Association, the State Soil Conservation Council, the South Australian Conservation Council, the Commonwealth Government, a presiding member and a person with extensive knowledge of the preservation and management of native vegetation. The last two officers are appointed by the Minister responsible for the Act the Minister for Environment and Natural Resources (Collins 1995).

Landholders are required to obtain the consent of the Native Vegetation Council before clearing can be undertaken. The *Native Vegetation Act*, provides in general, that when consent is given to clear, that conditions may be attached to that consent. Where consent is given to clear isolated plants or scattered trees conditions are attached to that consent, requiring revegetation. The conditions must ensure that the environmental benefits provided by the revegetation significantly outweigh the environmental benefits provided by the vegetation to be cleared. The usual ratio of replanting to clearing is about 10 to 1, using local seed and a pattern of planting that resembles, if possible, the original vegetation. Under the Act, no broadacre clearance applications have been approved, 50 - 60% of minor patch clearance applications are approved with conditions and approximately 95% of scattered tree applications are approved subject to conditions which involve the replanting of trees to replace those cleared (School of Forestry 1994).

One of the main advantages of the *Native Vegetation Act* is that it allows some clearance for management purposes but in most cases requires a landholder to also set aside an area for conservation. This has two effects. It ensures that areas for conservation are established in areas where clearance is occurring and it also is an education tool as now most people requesting clearance provide an area that they feel can be set aside for conservation. In 1994/95 over 2,400 hectares were set aside for consenting clearance of 5,900 trees over 2,900 hectares and removing 955 hectares of scrubland. This is a major positive of the scheme where there is a win-win situation at little cost to the community.

Under the Regulations attached to the *Native Vegetation Act* native vegetation up to 5 metres either side of fence lines for a fire break, or vehicle track of up to 5m width, can be carried out without consent on land which is not under Heritage Agreement. Clearance through these exempt categories could lead to large scale clearance of native vegetation in a region without the impacts of such clearance being assessed.

### 8.3 OTHER RELEVANT ACTIVITIES

The *Soil Conservation and Landcare Act 1989* was enacted to recognise that soils, vegetation and water constitute the most important natural resources. The Act promotes cooperation between government, industry and the community to reduce further degradation and rehabilitate degraded lands. The Act provides a legislative basis for planning to minimise degradation and to develop programs to address degradation and rehabilitation of degraded lands. Soil Conservation Boards are including within their District Soil Conservation Plans native vegetation issues within their areas of responsibility. The detail and depth of these plans varies but they are a basis for local community groups to express what they see as being important in future directions for native vegetation management.

The *Pastoral Land Management and Conservation Act 1989*, ensures that pastoral land is used sustainably through effective monitoring of landuse. The Act allows for changes to Crown leases to ensure that the pastoral industry remains viable.

The *National Parks and Wildlife Act 1972* enables voluntary Sanctuaries to be established on private land. There are over fifty-five Sanctuaries covering over 30,000 hectares and another six Sanctuaries are currently being assessed. In addition, State charges may be waived for transactions such as the sale or donation of private land to approved trusts or schemes dedicated for conservation purposes. A private corporation, Wetlands and Wildlife, has established wetland conservation areas in the South East on private land and receives the waiving of charges as an incentive towards private conservation management of land. The group has also received federal tax deductibility for donations.

The Bushcare Program is a very cost effective initiative by Trees for Life in South Australia for looking after roadside vegetation and has Australia wide potential. The program has financial support from Federal, State and local Government. The Scheme identifies areas of conservation significance on roadsides and, through carers, the areas are managed principally for rubbish and weed management. Over 26 sites were established in 1994/95 with carers being trained and supported through Trees for Life. Twice as many sites are being targeted for 1995/96 with a possible trial into Heritage Agreement land.

## 8.4 ASSISTANCE

The South Australian government has allocated funds to an annual Rural Tree Grant. These funds may be applied for by community groups in a similar way to Save the Bush and National Landcare Program grants. The government, through the Retree Centre, supports community groups through housing Greening Australia, Trees for Life, and Australian Trust for Conservation Volunteers in one complex (Collins 1995).

The Native Vegetation Council has established a grant scheme for 1995/96 that is for Heritage Agreement landholders to help in the management of their Heritage Agreements. This program is different to other funding sources in that individuals may apply as long as they have a Heritage Agreement.

## 8.5 FUTURE DIRECTIONS

The Native Vegetation Council is currently amending the Native Vegetation Act following a review undertaken in 1994. The legislative approach in South Australia has been effective in changing the attitude to broad area clearance. Emphasis now needs to go onto the management of the areas conserved and the areas linking remnants. This will be addressed through (Collins 1995):

- increased coordination of government extension resources;
- a commitment to actively revisiting Heritage Agreement owners and people who have planted and maintained areas as a requirement of approval to clear native vegetation;
- simplification of clearance applications and particularly linking this to property management so that the land manager can get on with the business with some certainty over a 3 year or longer time frame;
- proposed grant systems aimed at the promotion of active management of small areas of remnant vegetation and Heritage Agreements;

- linking of groups of Heritage Agreement owners with common problems; and
- linking urban and rural groups in conservation activities.

A draft South Australian Revegetation Strategy has recently been developed. The draft will be the basis for a representative group of private land managers and those involved in the management of native vegetation (ie the Native Vegetation Council, South Australian Farmers Federation, Local Government Association Soil Boards, etc) to determine with government representatives the future direction of vegetation management in this State (Collins 1995).

Factors critical to the retention of vegetation on private land are that conservation management and the *Native Vegetation Act* must be relevant to the landholders. This means that information to enable ecological management of private land must be collected and made available to landholders. To do this it is imperative that adequate resources are available to support landholders. Regional groups with expertise in native vegetation issues are being established to help in the assessment of local issues and to recommend priorities for native vegetation programs. The emphasis is on the local community to have the say in what is important in their area (Collins 1995).

Many landowners are committed to conservation of their native wildlife in South Australia. However, in order to retain that commitment it is imperative that the landholders have access to information and expertise which will support nature conservation activities as part of their overall property management. All levels of government and conservation organisations need to provide these services, recognising the different needs of landholders due to their personal circumstances and type of landholding. There is also a need to link the conservation actions of different land managers so that a coordinated effort is achieved (Collins 1995).

## 8.6 SUMMARY

In summary, active management of native vegetation should be encouraged through provision of information and support in the field as this is as critical as provision of any partial funding of activities, particularly for those who are undertaking the activities voluntarily.

## 9 TASMANIA

### 9.1 INTRODUCTION

The Tasmanian Parks and Wildlife Service is the major nature conservation agency in Tasmania and comes under the auspices of the Department of Environment and Land Management. The Tasmanian Parks and Wildlife Service provides both advice and formal opportunities to landholders who wish to contribute to nature conservation.

### 9.2 MAJOR PROGRAMS AND THEIR DELIVERY

#### Management by Agreement

Privately owned land may be declared as a Private Wildlife Sanctuary, under the Conservation Area Scheme and the *National Parks and Wildlife Act 1970*. Under the Conservation Area Scheme, landholders and the Director may enter into an agreement, and the conditions are entered on the land title. Landholders may be compensated for financial hardship resulting from protection of wildlife or habitat under these schemes (School of Forestry 1994). Private Wildlife Sanctuary status does not restrict the landholder (or those to whom the landholder has given permission) from carrying out their normal activities. However, it does impose enforceable conservation area regulations on the public. The landholder who enters into a Private Wildlife Sanctuary agreement can also elect to enter into a voluntary agreement to implement a management plan which is generally prepared by the Parks service in consultation with the landholder.

Conservation covenants can be attached to private land under a recent amendment to the *National Parks and Wildlife Act* under the *Public Lands (Administration and Forests) Act 1991*. Conservation covenants are intended to provide permanent protection for the area or species subject to the agreement. The covenant scheme is entered voluntarily by the landholder and once implemented is binding on the property title. The Minister administering the *National Parks and Wildlife Act* has the power to revoke or vary the covenant with the consent or at the request of the owner under certain circumstances, when the land is no longer capable of fulfilling the purpose for which the covenant was prepared.

#### Statutory protection of wildlife habitat

The *National Parks and Wildlife Act* includes schedules of protected wildlife (including vertebrates and some cave invertebrates). This legislation protects individual vertebrates (mainly mammals and birds) on private land, but not their habitats.

The *Forest Practices Act 1985* and the *Public Lands (Administration and Forests) Act* are the only pieces of legislation which compulsorily regulate vegetation clearance. The *Forestry Practices Act* requires that forest practices in both Crown and private forests are undertaken in an environmentally acceptable manner. The *Public Lands (Administration and Forests) Act* allows for compensation to be paid to private foresters if forestry operations are restricted due to the presence of rare or endangered species. A fund to finance compensation has not yet been established and since the Act became effective no cases have been tested (Wells 1995). In addition, some local government authorities restrict land clearance through planning schemes rather than legislation (School of Forestry 1994).

The *Land Use Planning and Approvals Act 1993* provides for the exercise of controls over land use via statutory planning schemes. There is a requirement for such planning schemes to be consistent with State Policies and Planning Guidelines. State Policies on Roads and Coastal Development are being formulated and policies on Catchment Management and Threatened Species are envisaged.

### 9.3 OTHER RELEVANT ACTIVITIES

The Parks and Wildlife Service, in cooperation with other Government agencies and the University of Tasmania, has undertaken and facilitated research to identify species and communities which are rare, vulnerable, or endangered and those poorly protected in reserves, for example heathlands and remnant bush in the Midlands. Where possible reserves have been established on Crown Land, and some private land has been acquired for reservation of critical habitat for certain species. Moreover, under the Commonwealth's Endangered Species Program, considerable research has been undertaken to prepare Recovery Plans for endangered and vulnerable species, and funds have been provided to implement such plans. The Parks and Wildlife Service has been liaising with private landholders and government agencies to implement management requirements listed in the Plans.

#### Whole Farm Planning

The Whole Farm Planning or Property Management Planning has had a significant impact on vegetation management in Tasmania. Courses run by the Department of Primary Industry stress the integration of agricultural technology with ecological principles. The Tasmanian Parks and Wildlife Service contributes to the running of these courses.

#### Drought Landcare

Funding from the Drought Landcare Program in 1994/95 and 1995/96 has been used by community groups to fence off remnants, and for tree planting activities, seed collection and weed control on private land.

### 9.4 ASSISTANCE

General advice and assistance has been provided to landholders by the Parks and Wildlife Service to assist in establishing covenants and in the protection of wildlife habitats. In addition, there are a number of local conservation networks such as the Coastal Bird Management Group which can provide assistance to landholders. Furthermore, nature conservation on private land has been addressed through community driven initiatives, particularly the National Landcare Program, and the nature conservation elements of the Save the Bush and One Billion Trees Programs.

### 9.5 FUTURE DIRECTIONS

Off-reserve conservation and wildlife management are considered a high priority by the Tasmanian Parks and Wildlife Service. Important new initiatives will result in services being delivered principally by three new programs:

- Land for Wildlife;
- Threatened Species Management; and
- Property-based Game Management.

These programs are to be implemented in 1996 and will necessitate a redirection of resources towards developing partnerships with the community to promote conservation on private land.

## Threatened Species Management Program

The issue of protection of rare and threatened species was not addressed in Tasmania until June 1991. A Working Group was established including farmers, conservationists, academics, government biologists and conservation managers, and released a discussion paper for public comment. After a review of public submissions the Threatened Species Bill was drafted, and was tabled in Parliament in December 1994. The *Threatened Species Protection Act* was given Royal Assent in November 1995. The Act requires identification and formal listing, in three Schedules, of vertebrates, invertebrates and plants that are rare or threatened in Tasmania. It provides a voluntary mechanism for protecting habitats of such species where they occur on private land through property-based management plans and management agreements. There is also provision for Interim Protection Orders which protect threatened habitat for up to 30 business days while resolution of management options are negotiated.

## Land for Wildlife

A project was undertaken in Tasmania in 1994 to determine the suitability of a program similar to the Victorian Land for Wildlife scheme for voluntary nature conservation on private land. The investigation revealed that the scheme is very suitable and would have broad community support. The benefits of a Land for Wildlife Scheme in Tasmania are that it:

- is voluntary and would considerably increase the amount of land managed primarily for nature conservation in Tasmania;
- would establish a systematic way of providing advice and assistance to private landholders about managing habitat for native wildlife regardless of status;
- would enable better records to be kept of the distribution and status of native species and habitats on private land; and
- would establish a network of people committed to conserving native species and an effective system for information exchange with the community.

The scheme is intended to be voluntary with landholders approaching the Service to be included in the scheme, however, in certain circumstances, where critical habitat is identified, the landholders may be approached and asked to register their properties.

## Property-based Game Management Program

A program aimed at bringing landowners, hunters, wildlife-based industries (harvesting native and introduced species) and conservationists together in developing management plans to ensure sustainable use and conservation of wildlife and their habitats on private land. The principles of the program are to:

- manage the resources of the property to ensure ecological sustainability;
- promote a partnership between the landowner and principle stakeholders in the community;
- ensure that management is to the benefit of and meets the approval of the landowner;
- focus on management of species that are hunted, whilst taking into account conservation objectives and other property management objectives.

Property-based game management plans will be an integral part of Whole Farm Planning, with clear links to Landcare, Land For Wildlife and other rural programs.

## 9.6 SUMMARY

Tasmania has a range of instruments to promote nature conservation on private land. The development of a Land for Wildlife scheme based on the Victorian model is likely to increase participation.

## 10 VICTORIA

### 10.1 INTRODUCTION

Victoria is fortunate in having about a third of its land in public ownership, but two thirds are in private hands and many habitats are represented only on private land. It is now widely recognised that to achieve nature conservation on private land, governments must work with private landholders. This is the aim in Victoria and recent initiatives reflect this approach. A cooperative approach recognises the important role landholders can play in nature conservation. In Victoria voluntary, voluntary but binding, and regulatory mechanisms are available to facilitate nature conservation on private land (Platt 1995).

The importance of private land to nature conservation needs to be recognised by all levels of government, particularly in the development and implementation of regional strategies and plans which facilitate a regional perspective and integrated planning. Integration is a key to success. For example, agricultural extension staff must recognise the importance and implications of their advice to nature conservation efforts. Only by working together will conservation be achieved in the large areas of Victoria that are on private land.

### 10.2 MAJOR PROGRAMS AND THEIR DELIVERY

The Department of Natural Resources and Environment (NRE) is the government agency which has the lead role in coordinating and implementing nature conservation initiatives and biodiversity management. Acts which are related to the Department's activities include the *Flora and Fauna Guarantee Act 1988*, *Planning and Environment Act 1987*, the *Conservation, Forests and Lands Act 1987*, *Wildlife Act 1975*, and the *Catchment and Land Protection Act 1995*.

#### Management By Agreement

##### Binding Agreements

Voluntary, but binding, nature conservation agreements are available under the *Conservation Forests and Lands Act*, *Wildlife Act* and *Victorian Conservation Trust Act 1972*. Agreements under these Acts include Land Management Cooperative Agreements, Wildlife Management Cooperative Areas and Conservation Covenants respectively. Schemes based on such agreements provide for a degree of legal responsibility to be incumbent upon both the relevant authority and the landholder and, in the case of a covenant on title, can ensure protection of specific values despite changes of ownership. To be effective, such methods require that professional and technical advisory support be available, if required, to assist landholders to attain their agreed management goals (Platt & Ahern 1995).

Under the *Conservation Forests and Lands Act*, the Director General (now Secretary) NRE, Department of Natural Resources and Environment, may enter into Land Management Cooperative Agreements with landholders relating to the management, preservation or conservation of land. The agreement may restrict certain activities as well as specify works to be carried out to conserve flora and fauna. These agreements are binding on future landholders and are enforced through contractual procedures (Bates 1992). In return for entering into an agreement, a landholder may receive financial assistance and rate rebates (Bates 1992).



Agreements made under the Act with private landholders may require that the land, or parts of it, become a Flora and Fauna Sanctuary for the purposes of the *Wildlife Act*, or otherwise relate to the conservation of flora and fauna.

In addition, under the *Wildlife Act*, Wildlife Sanctuaries and Wildlife Management Cooperative Areas may be declared in respect of both Crown and private lands in response to an application by the owner or occupier (Bates 1992). Since inception in Victoria only a handful of Land Management Cooperative Agreements and Wildlife Management Cooperative Areas have been established. Awareness of these provisions is poor.

Trust for Nature (Victoria), previously Victorian Conservation Trust, can negotiate voluntary covenants under the *Victorian Conservation Trust Act*. The covenants can be used to conserve areas of ecological significance as well as areas with landscape, historical or recreational value. The covenants are perpetual and registered on the title, requiring all future owners to observe the conservation management conditions of the covenant. The Trust provides a conservation management plan for each covenant and a monitoring program to ensure the covenant conditions are being observed. The cost of establishing the covenant is borne by the Trust. By April, 1996, the Trust had registered over 180 covenants protecting more than 6,500 hectares and was negotiating a further 130 covenants covering 5,000 hectares.

The Trust has purchased more than 100 properties covering 7,000 hectares. About half have been kept by the Trust and managed as conservation areas and some have been transferred to the Crown. Under the powers of the Act, the Trust can specify how the transferred land is to be managed, for example, by addition to a National Park. The Trust often acts as a broker to purchase conservation land on behalf of State and Federal governments or their agencies. It can act in the market place as a private buyer, unencumbered by bureaucracy.

Other areas of activity of the Trust are the support of community appeals to purchase conservation land or provide conservation amenities. Donations to the Trust are tax deductible and the land, when purchased, is owned by the Trust and managed by a local committee of management. Where the land is transferred to a local authority, a covenant is placed on the land to secure its future.

### **Non-Binding Agreements**

The voluntary Land for Wildlife Scheme which began in 1981 is administered by NRE in conjunction with the Bird Observers Club of Australia. The program encourages and assists landholders to manage their land for wildlife or integrate nature conservation with other land management objectives (Platt & Ahern 1995).

The Land for Wildlife program seeks to encourage attitudinal change and adoption of an ethic of conserving nature on private land. The program has three main thrusts:

- Land for Wildlife registration, which caters for landholders who feel they have a role to play and wish to be kept informed and enthused. Registration is a means of providing encouragement and support to landholders;
- a broader program which aims to assist landholders to find better solutions to management problems they face that involve protection and enhancement of wildlife habitat; and
- provides cost effective conservation management of private land supported by education and training programs.



There are now over 3500 properties involved in the scheme on which over 80,000 hectares has been identified by landholders as being managed for wildlife. The registration scheme provides advice to landholders via a team of extension officers supported by NRE staff and volunteers, newsletters, technical notes and field days. Registration is acknowledged by a certificate and a sign which serves to advertise that the property supports the principles of Land for Wildlife. Land for Wildlife group registration has been recently introduced to encourage cooperative endeavours involving a number of landholders at a landscape level. This concept provides an ideal way for groups formed under Landcare landholder groups pursuing ecologically sustainable management to also become involved in Land for Wildlife, promoting the networking of vegetation and land management community initiatives. Land for Wildlife does not provide financial incentives of its own but offers advice on the assistance available elsewhere (Platt & Ahern 1995). Land for Wildlife is developing strategic plans for regions of the State and has undertaken numerous targeted extension projects relating to key habitat areas.

### **Statutory Protection of Wildlife Habitat**

Habitats identified as critical to the survival of any species of flora and fauna may be protected under the *Flora and Fauna Guarantee Act 1988*. The Act underpins a whole program of activities aimed at guaranteeing that Victoria's flora and fauna survive, flourish and retain their potential for evolutionary development in the wild. This program is set out in the Flora and Fauna Guarantee (FFG) Strategy which involves all elements of the community, especially landholders, scientists, industry and government agencies in efforts to prevent more indigenous flora and fauna from becoming extinct. The Strategy sets out a program for working cooperatively with private landholders to achieve nature conservation on private land. Key features of the FFG Act are the listing process, in which threatened species and communities and threats to flora and fauna are identified; Action Statements which outline the management programs for those listed items; protected flora controls which are designed to help prevent threats from occurring, particularly on public land and private critical habitat; and the determination of critical habitats, which focuses attention on the part of a species' or community's habitat that needs the most careful management. Until long-term changes to planning schemes are made or land management conflicts are resolved some other way, an Interim Conservation Order can be used to prohibit, modify or require certain activities in and around critical habitat. Although compensation is payable, Interim Conservation Orders would be used as a last resort; cooperative action is by far the best approach to preventing the extinction of native flora and fauna.

The FFG Strategy emphasises the need to minimise social and economic costs while achieving the conservation objectives of the Act. Activities within or upon a critical habitat, or activities outside the critical habitat likely to affect the critical habitat in a detrimental manner, may be controlled by notice. Landholders who suffer financial loss as a direct consequence of the making of an Interim Conservation Order or notice may be entitled to compensation. Before the Interim Conservation Order expires, steps must be taken for the purpose of ensuring the long-term conservation of the species or critical habitats protected under the order or notice (Bates 1992).

Since 1989 an amendment to the State section of all planning schemes in Victoria has controlled the broad-scale clearing of native vegetation (Department of Conservation and Natural Resources 1996). In the 18 months following introduction of the controls, approval was given for only 5,000 hectares of land to be cleared. Compensation is not paid if clearing is denied (Platt 1995).

## 10.3 OTHER RELEVANT ACTIVITIES

### Codes of Practice

Codes of practice relating to land management, covering various aspects of land degradation (including vegetation retention), may be issued under the *Conservation Forests and Lands Act*. Codes of practice are not legally binding.

### The Revolving Fund

The Trust for Nature (Victoria) administers a revolving fund which involves the purchase of land and application of statutory covenants to the title to protect conservation values in perpetuity, followed by resale to sympathetic purchasers. The revolving fund enables the establishment of a substantial private conservation reserve system managed by private owners. The effectiveness of the revolving fund is that it (Forge 1994):

- recaptures most of the capital purchase cost; and
- passes responsibility for land management to owners who are committed to a conservation ethic.

Private land at the edge of conservation reserves generally has high conservation value and is often readily marketable and the Trust has covenanted many of these areas. The Trust, which administers the revolving fund, is a statutory authority and is therefore exempt from stamp duty and from some rates and taxes. This enables the Trust to keep transaction costs low. However, conveyancing and program management costs are borne through the Trust. One of the major benefits of the Trust managing the revolving fund program is that the Trust is not bound by the usual government and ministerial approval process for land acquisition and therefore is able to react quickly when high value conservation properties come onto the market. An added benefit is that the Trust is able, if it wishes, to buy above valuation, which is sometimes necessary (Forge 1994). As at April 1996, eight properties had been resold with covenants.

## 10.4 ASSISTANCE

In addition to assistance provided by Land for Wildlife and Trust for Nature (Victoria), the Victorian Government provides funding under the Tree Victoria program. This program provides, among other things, money for fencing and tree planting activities by community groups. The program allows conservation activities to occur on private land if there is a significant community benefit. The Land Protection Incentive Scheme provides grants to individual landholders for tackling a range of land protection problems such as salinity, erosion, tree decline and pest plants and animals.

Other forms of incentive are also available locally including taxation benefits (associated with Landcare activities) and local government rate rebates; goods, such as fencing materials, plants or seed; labour (eg, prison labour for fencing) and equipment such as machinery loans. The availability of these forms of assistance is limited and often inconsistent. Recent work with landholders in northern Victoria indicates that they may see financial incentives as of less importance to conserving nature on their land (Morrison 1995 unpub report cited in Platt 1995) than information, research and education which they regard as more fundamental.

Non-government organisations are also active. For example, the Australian Bird Environment Foundation provides financial support to nature conservation projects on private land. The Royal Australasian Ornithologists Union has campaigned to raise funds for habitat retention and enhancement and to undertake research and monitoring activities. The Victorian National Parks Association has organised fencing workshops for volunteers and landholders in rural areas and developed strategies for nature conservation in association with private landholders. The Roadsides Conservation Committee supports the protection and enhancement of flora and fauna on roadsides throughout Victoria and has undertaken roadside assessments with local government in order to identify high priority sites (Platt 1995). Tree Project involves urban volunteers in growing native seedlings for rural landholders. Greening Australia (Victoria) assists landholders with technical advice, training and in sourcing funds to undertake conservation projects such as the 'River Murray Corridor of Green'.

## 10.5 FUTURE DIRECTIONS

Land for Wildlife will continue to focus on the Program's vision. Specifically, the program will increase assistance to Landcare groups to help them incorporate the benefits of biodiversity in their plans and activities. Key habitat areas on private land will be identified via strategic planning and assistance offered to landholders in these areas. Group formation, working with local governments and Catchment and Land Protection Boards and monitoring will also receive increased attention.

A future strategy of the Trust for Nature (Victoria) is the Habitat Protection Program. This program aims to secure the protection of remnant ecosystems on private land through land purchase, covenanting and other appropriate mechanisms. The Habitat Protection Program will provide a series of non-binding agreements that have increasing levels of commitment and responsibility for conservation management on the part of the owner with increasing levels of support from the Trust. This will allow the landowner to enter into a conservation agreement at a level which is acceptable to them and then progress through a series of defined agreements until, ultimately, a covenant is negotiated. The Trust program complements that of Land for Wildlife which is seen as the first step in a commitment to conservation management.

## 10.6 SUMMARY

There are two major tasks for nature conservation on private land. They are to provide encouragement, management advice and skills to those landholders who have the desire to manage their land appropriately for nature conservation and, secondly, to convince those landholders who do not have this desire that it is in their economic, social or environmental interest to promote conservation on their properties. The role of entirely voluntary nature conservation appears to be becoming an increasingly significant component of private land nature conservation strategies. The challenge for nature conservation on private land is to identify ways in which people can benefit from a more ecologically sound approach to management of their land and to convey this vision, along with sufficient technical knowledge and practical skills, to the landholder. Support is also needed at a level sufficient to enable actions to be undertaken where financial or physical constraints would otherwise act as barriers (Platt 1995).

For example, under the *Local Government Act*, local authorities can provide rate rebates but very few offer this recognition of the contribution of private land conservation. To advance private land conservation requires leadership and support including tax concessions for fencing conservation areas on private land and incentives to local councils to provide rate concession. The advantage Victoria has is that a conservation covenant not only provides permanent protection of private land but also identifies those areas that should receive support through rebates and tax concessions to offset the sacrifice of the owner to forego production or subdivision potential.

A range of approaches to nature conservation on private land in Victoria is being tried. Ultimately, the relative success, in biological terms, of the various approaches to inducing nature conservation on private land needs to be evaluated. Each method may, in fact, have a role to play in conserving nature on private land.

## 11 WESTERN AUSTRALIA

### 11.1 INTRODUCTION

The Department of Conservation and Land Management (CALM) has primary responsibility for nature conservation in Western Australia. The State has both legislation and cooperative agreements which promote nature conservation on private land.

### 11.2 MAJOR PROGRAMS AND THEIR DELIVERY

#### Management by Agreement

Under the *Conservation and Land Management Act 1984*, the Executive Director of CALM can enter into agreements with landholders and pastoral lessees to manage private or leasehold land as a nature reserve or other conservation reserve to provide protection for flora and fauna. The details of the agreement are worked out between the landholder or lessee and CALM. Several such agreements are being negotiated.

CALM encourages the retention and management of private remnant vegetation and provides advisory assistance to landholders and other land managers. The Department's role in this is detailed in CALM Policy Statement No 27, the objective of which is:

*To work with the rural community to retain, restore and increase tree and shrub cover throughout the State's rural areas to achieve sustainable economic landuse and the conservation of natural species and processes.*

The policy provides a framework for liaison between CALM and Agriculture Western Australia and for encouraging the voluntary conservation of native vegetation.

#### Statutory protection of wildlife habitat

CALM is responsible for the conservation of flora and fauna throughout the State, including on private land, and the administration of the primary nature conservation legislation, the *Wildlife Conservation Act 1950*. The powers given under the Act are limited on freehold land to the taking of fauna, the taking of declared rare flora, and the sale of flora. The Act does not preclude the landowner clearing flora, other than declared rare flora, as part of legitimate activities being undertaken on that land.

Agriculture Western Australia is concerned with the protection of remnant vegetation on private lands as it relates to sustainable production from the land resource and administers the *Soil and Land Conservation Act 1945* which has been extended to include provisions relating to the removal or deterioration of natural or introduced vegetation. Land Conservation District Committees have been established to advise the Commissioner for Soil and Land Conservation on such matters within their own land conservation districts. Wherever land degradation occurs, or is likely to occur, because of any agricultural or pastoral practice, clearing or destruction of trees, shrubs, plants or grasses, failure to control soil erosion, salinity or flooding, the Commissioner may serve a Soil Conservation Notice on the owner and the occupier of the land specifying what needs to be done to prevent further degradation (Bates 1992). Since 1986, landholders in Western Australia wishing to clear more than one hectare of native vegetation have had to obtain permission from the Commissioner through Agriculture Western Australia. Areas not allowed to be cleared due to the potential for land degradation must be fenced to prevent

grazing and compensation is not payable. These clearing controls were extended in May 1995 to provide greater protection for vegetation, including consideration of nature conservation values in assessing clearing applications. The new measures restrict clearing on properties and in Shires with less than 20% remnant or deep-rooted perennial vegetation, unless landowners can demonstrate that further clearing will not cause land degradation or threaten nature conservation values.

### 11.3 OTHER RELEVANT ACTIVITIES

The Department of Environmental Protection and the Environmental Protection Commission (EPC) may review the environmental impact of any proposed clearing of native vegetation under the *Environmental Protection Act 1986*. Clearing applications may be forwarded by Agriculture Western Australia when a notice of intent to clear is received, or by any other person. In assessing an application, the EPC prepares a report to the Minister for the Environment with recommendations for the management of the area, which may include a recommendation opposing the clearing of vegetation. The Minister then sets conditions for the area, which may include Crown purchase.

Under the *Country Areas Water Supply Act 1947*, controls exist over clearing of native vegetation in six designated catchments in the south-west of the State. Applications to clear are made to the Water and Rivers Commission. Where an application to clear vegetation is refused by the Commission, the landholder may claim compensation for loss of production for any areas in excess of 10% of the property area. Fencing of the remnant is not required and limited grazing, or other utilisation, is allowed for offsetting the compensation claim.

The *Town Planning and Development Act 1928* makes some provision for clearing controls through provisions within Town Planning Schemes. Clearing controls are achieved through zoning provisions, general policy statements and the development approval process. Rural Planning Strategies may make provision for remnant vegetation protection. The strategies are developed by the Ministry for Planning.

### 11.4 ASSISTANCE

Agriculture Western Australia and CALM are responsible for administering the Remnant Vegetation Protection Scheme, which provides financial assistance for fencing remnant vegetation. The Scheme is voluntary whereby private landholders apply for a subsidy for fencing off remnant vegetation. Funding is allocated on the basis of nature conservation value. Successful applicants are required to place a 30 year memorial on their land titles for the protection of the remnant bush. The scheme has been operating since 1988/89 and has provided fencing for 835 remnants totalling 38,647 hectares to 1994/95 at an average cost of \$58.13 per hectare.

The Gordon Reid Foundation for Conservation was established by the Lotteries Commission in 1991 to fund both small and major projects by community groups. The focus in recent years has shifted towards remnant vegetation management, with current funding for this being \$1.2m. The intention of the Foundation is to fund those project areas that are not being funded by other sources.

CALM provides small amounts of financial assistance for fencing populations of declared rare flora on private land. Such areas are protected by virtue of the occurrence of the rare flora, and the landholders are requested to sign an agreement to maintain the fence. CALM also manages

the flora industry, which includes flora production and harvesting from private lands. Advice is provided on sustainable flora harvesting from natural stands and landowners are encouraged to conserve remnant vegetation as a potential source of flowers or seed.

Extension officers are employed by both CALM and Agriculture Western Australia through funds provided by the National Landcare Program, including the Save the Bush Program. Perth Zoo has an innovative and active Landcare Education Centre with extension officers being employed. Travelling "roadshows" into agricultural areas are part of this program. There are also several non-government organisations active in voluntary nature conservation on private land including Greening Western Australia, the Australian Trust for Conservation Volunteers, the Conservation Council of Western Australia, and the Men of the Trees.

## 11.5 FUTURE DIRECTIONS

A draft Wildlife Conservation Bill has been produced to replace the current *Wildlife Conservation Act*. This Bill includes provision for nature conservation covenants and the declaration of protected sites for the conservation of specific flora and fauna communities and/or habitat. The proposal to introduce legislation providing for voluntary nature conservation covenants on private land is currently being progressed.

CALM has established a pilot Land for Wildlife Scheme along the lines of that which operates in Victoria. It is recognised that such a Scheme will provide the network of professional/technical expertise to support nature conservation work in rural areas. The pilot scheme will identify the resource requirements for, and conservation benefits from, a fully operational Land for Wildlife Scheme.

A package totalling \$6.75 million was announced by the Western Australian Government in May 1995 for remnant vegetation management and revegetation. The package includes added funding for fencing of native vegetation under an expanded Remnant Vegetation Protection Scheme, which will be linked to a revegetation strategy for rural areas.

## 11.6 SUMMARY

Legislation is in place to provide for nature conservation on private lands in Western Australia through protection mechanisms and the management of nature-based industry. Financial incentive schemes provide assistance for nature conservation on private lands, with the principal one being the Remnant Vegetation Protection Scheme, which is linked to the covenanting of private bushland and a State revegetation strategy.

Data for the formal, terrestrial conservation estate is shown in Table 1, as is the areas of vegetation protected on private land.

**Table 1. A comparison between reserve and off reserve conservation in Western Australia as at 30 June 1995.**

	Category	Area (Hectares)
<b>Reserve</b>		
National Park		4,870,828
Conservation Park		117,253
Nature Reserve		10,781,954
<b>Total</b>		<b>15,770,035</b>
<b>Off-reserve</b>		
Remnant Vegetation Protection Scheme	Voluntary Covenant	38,647
Protection by Commissioner for Soil Conservation	Non-Voluntary - Binding covenant	75,098
Protection from clearing by Water and Rivers Commission	Non-Voluntary - Binding covenant	104,000
<b>Total</b>		<b>217,745</b>

A major constraint for Western Australia is related to its size and sparse population base. A number of project officers employed in Agriculture Western Australia under the National Landcare Program State Partnership Agreements are able to provide a network of soil and land conservation advice. The same network is not available for nature conservation, and hence the amount of access for rural land managers and the continuity of advice is lacking. A single Save the Bush Coordinator is, however, supported with Commonwealth funds under Save the Bush. CALM has difficulties in providing adequate extension services due to limited resources and large land areas to manage. Although rural land managers are often keen to undertake nature conservation activities, they are not able to develop the expertise from written information. Field staff are required to provide the needed guidance on site. This shortcoming should be addressed to a degree through the implementation of the Land for Wildlife Scheme in Western Australia.



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