

Review of the *Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998*



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



Environmental Protection Authority

December 2008

Submissions

The purpose of this document is to present for public comment, in accordance with section 36 of the *Environmental Protection Act 1986*, the EPA's review of the existing *Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998* and the proposed new draft South West Agricultural Zone Wetlands Environmental Protection Policy.

The EPA welcomes your comments. Written submissions should be lodged by **27 March 2009**. All submissions will be acknowledged and a summary of submissions will accompany the revised draft policy upon its transmittal to the Minister for the Environment. Late submissions will be considered at the discretion of the EPA.

Submissions can be mailed to:

Environmental Protection Authority
Locked Bag 33, Cloisters Square
Bentley Delivery Centre WA 6850

Or emailed to policy@dec.wa.gov.au and enter "Review of the South West Wetlands EPP" in the subject line.

This document can also be viewed on the EPA website www.epa.wa.gov.au

Environmental Protection Policies

An Environmental Protection Policy (EPP) is prepared under Part III of the *Environmental Protection Act 1986* and has "the force of law as though it had been enacted as part of this Act", on and from the day on which the policy is published in the *Western Australian Government Gazette*. The Act is binding on the Crown. Accordingly, the wider community as well as all government departments and agencies are required under law to comply with both the Act and EPPs prepared under the Act.

An EPP establishes:

- the basis on which the portion of the environment to which the policy relates to is to be protected; and
- the basis on which pollution of, or environmental harm to, the portion of the environment to which the policy relates to is to be prevented, controlled or abated.

In addition, an EPP may:

- identify the portion of the environment to which the policy applies;
- identify and declare the environmental values of the environment to be protected under the policy;
- specify the environmental quality objectives to be achieved and maintained under the policy;
- set out the indicators, parameters or criteria to be used for measuring environmental quality in the policy area;
- relate to any activity directed towards the protection of the environment, including the discharge of waste;
- create offences and penalty provisions; and
- establish a program for the achievement and maintenance of the environment quality objectives within the policy area and may specify, among other things, measures designed to:
 - i. minimise the possibility of pollution or environmental harm;
 - ii. protect the environment; and
 - iii. achieve the environmental values to be protected.

A diagram outlining the EPP process is provided at the back of this document. This review is at the stage of "EPA publishes draft EPP" and "Draft EPP released for public comment" as shown in the diagram.

Cover page photos: Lake Monjigup, Esperance in February 2000.

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APPENDIX 1: Draft *Environmental Protection (South West Agricultural Zone Wetlands) Policy 2008*

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APPENDIX 3: Summary of Wetland Condition for the Two Registered Wetlands

1. SUMMARY

The *Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998* (South West Wetlands EPP) was gazetted on 28 October 1998 and took effect from this date.

The Environmental Protection Authority (EPA) is required to:

- Review the existing South West Wetlands EPP;
- Prepare a new draft policy for public comment; and
- Submit a revised draft policy to the Minister for Environment.

Accordingly, the EPA has prepared this document to present for public comment, in accordance with section 36 of the *Environmental Protection Act 1986* (the Act), the EPA's review of the existing South West Wetlands EPP.

The EPA notes that the South West Wetlands EPP could have been more effective in protecting some wetlands since the policy was released in 1998. The EPA is also conscious of the need to prevent the continuing loss and degradation of wetlands through improved policy and management action. The EPA considers that in order to protect wetlands effectively there needs to be a holistic approach whereby legislative and non-legislative mechanisms are put in place.

With this in mind the EPA, while recognising some weaknesses in the 1998 policy, has opted to provide a new draft policy (Appendix 1) which is essentially the same policy (Appendix 2) except for updates where they have been required due to amendments in legislation in the 10 years since the publication of the policy. This is so the EPA can provide a relatively 'clean sheet' for input on the best way forward for the protection and management of wetlands in the south west. The EPA is in effect providing the new draft as a starting point for discussion and has prepared this review document to facilitate this. The EPA is keen to hear the views of the community and experts before proceeding further.

The EPA now invites your comments on their review of the effectiveness of the South West Wetlands EPP in delivering the policy objective of wetland protection in the south west agricultural zone and the proposed new draft South West Agricultural Zone Wetlands Environmental Protection Policy. Please see the inside of the front cover for details on how to make a submission.

2. BACKGROUND

2.1 WESTERN AUSTRALIAN WETLANDS

Wetlands are a fundamental part of the natural environment. Australia has among the highest wetland diversity in the world and a large number of the world's internationally recognised wetlands.

Wetlands have been forming in the Western Australian landscape over millions of years, and are part of a complex link between the landscape, soil, groundwater, rivers, plants and animals. There are many types of wetlands including the well recognised, permanent wetlands with water at the surface all year and seasonally waterlogged wetlands with damp soils during and after the main rainfall season. Seasonal wetlands, particularly seasonally waterlogged wetlands, often have a higher plant and animal species richness than permanent wetlands.

Wetlands are highly productive ecosystems supporting a great richness and abundance of wildlife, providing habitat, refuge, breeding grounds and food sources for animals. Wetlands have great significance to both indigenous and non-indigenous cultures and are valued, not only for their wildlife, but also as spiritual places, sources of food and water and areas for recreation and relaxation. They also provide an important function for flood control by storing and detaining storm water.

2.2 ONGOING LOSS AND DEGRADATION OF WETLANDS

The State of the Environment Report 2007 (EPA, 2007) indicates that wetlands of the south west Western Australia are being lost or degraded at an alarming rate by altered catchment water balances, drainage, development, salinity, acidity, pollutant discharge, dieback, weed encroachment and insensitive fire management.

Many wetlands of the south west have been extensively cleared, especially in the wheatbelt, and those remaining are under significant pressure (EPA, 2007). The State of the Environment Report 2007 states that limited but intensive monitoring of 25 regionally important wetlands indicates that 26% are deteriorating, with rapidly declining biodiversity. Evidence shows that wetlands are being degraded through the impact of dryland salinity and that the impact on wheatbelt wetlands has been particularly severe and widespread (EPA 2007). Many remaining wheatbelt wetlands do not reflect their pre-European settlement condition as it is estimated that over 90% of the land in the Avon River catchment has been cleared.

The EPA considers the substantial loss, degradation and modification of wetlands that has occurred in Western Australia as an important issue (EPA, 2007). The EPA's overarching goals for wetlands as detailed in *Environmental Protection of Wetlands* Position Statement No. 4 are:

- to protect the environmental values and functions of wetlands in Western Australia;
- to protect, sustain and, where possible, restore the biological diversity of wetlands habitats in Western Australia;
- to protect the environmental quality of the wetland ecosystems of Western Australia through sound management in accordance with the concept of 'wise use', as described in the Ramsar Convention, and ecologically sustainable development principles, regardless of land use or activity; and
- to have as an aspirational goal of no net loss of wetland values and functions.

2.3 THE EXISTING SOUTH WEST WETLANDS EPP

The purpose of the South West Wetlands EPP is to “prevent the further degradation of valuable wetlands and to promote the rehabilitation of wetlands in the South West Agricultural Zone of Western Australia”.

The policy applies to the area represented in Schedule A of the policy that is broadly described as the intensive agricultural land use zone in the south west of Western Australia, but does not include the Swan Coastal Plain. Lakes on the Swan Coastal Plain are protected by the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1998*.

The policy establishes and identifies protected wetlands on a Register of Protected Wetlands (Register). The Register is comprised of two tables; Table 1 is for wetlands with high conservation value and Table 2 is for wetlands which are degraded but retain significant natural values.

The policy sets out to protect wetlands by prohibiting activities that may degrade or destroy wetlands. Under the policy (Part 4) filling, excavation and mining, discharge or disposal of effluent, removal of water, damaging or clearing of native vegetation and construction or alteration of the water drainage system of protected wetlands is prohibited unless authorised.

Since gazettal of the South West Wetlands EPP the EPA has received and approved two nominations for the Register which was established by the EPA on 17 February 2000. The first registration was approved in July 2000 for Lake Monjingup near Esperance and the second registration was approved in August 2002 for Koojedda Swamp near Northam. Both wetlands were registered under Table 1. Wetland condition assessments of values, beneficial uses, attributes and functions were undertaken to provide baseline information prior to these wetlands being placed on the Register. A summary of wetland condition (at the time of registration) is provided in Appendix 3 for the two registered wetlands.

The policy provides for a programme for protecting wetlands and their beneficial uses, through the preparation of catchment management strategies and a Partnership Agreement for Wetland Conservation. There have been no catchment management strategies or a Partnership Agreement prepared under the policy.

2.4 REVIEW OF THE SOUTH WEST WETLANDS EPP

Under section 36(1) of the EP Act, the EPA is required to review an environmental protection policy and prepare a revised draft policy for transmittal to the Minister for Environment within seven years from the date on which the policy was approved (the date it was published in the *Government Gazette*). An explanation of environmental protection policies is provided inside the front cover of this document.

Under this requirement the EPA was due to transmit a revised draft policy to the Minister by 28 October 2005. However, on 17 May 2005, the commencement of the review of the South West Wetlands EPP was deferred under section 36(1)(b) of the EP Act until finalisation of the revised draft Swan Coastal Plain Wetlands Environmental Protection Policy 2004. In August 2006, the then Minister for the Environment decided not to finalise the revised draft Swan Coastal Plain Wetlands Environmental Protection Policy 2004.

Accordingly, the EPA initiated the review of the policy and has prepared this review document for public comment. In conducting the review, the EPA sought preliminary advice from the Department of Environment and Conservation (DEC), and the Wetlands Coordinating Committee.

3. ENVIRONMENTAL PERFORMANCE OF THE SOUTH WEST WETLANDS EPP

In this review the environmental performance of the South West Wetlands EPP has been broadly assessed according to how well it has achieved its purpose.

3.1 PROTECTION OF SOUTH WEST WETLANDS

As indicated in section 2 above, there is a continuing trend towards wetland degradation in Western Australia. However, it is difficult to ascertain details of wetland degradation especially in the south west of Western Australia with a high level of confidence. While there are some databases of wetlands and their condition, there are gaps in the information available. The State of the Environment Report states that there is little information available on the spatial extent of wetlands and even less on their condition (EPA, 2007).

The exact number of wetlands in the south west agricultural zone has not been documented. Preliminary work undertaken by the former Department of Environmental Protection (now DEC) in 1996/97, as part of the development of the South West Wetlands EPP, identified an estimated 2,492 potential candidate wetland areas for registration in the south west agricultural zone. The Commonwealth's *A Directory of Important Wetlands* (Environment Australia, 2006) identifies nationally important wetlands, of which approximately 521 are within the South West Wetlands EPP policy area.

Of the 2,492 potential candidate wetland areas for registration in the policy area, as identified in 1996/97, two of these wetlands are on the Register.

3.2 PROTECTION OF REGISTERED WETLANDS

Under the policy, registered wetlands are protected by prohibiting activities (as described in section 2.3) that may degrade or destroy wetlands.

On-ground surveys and monitoring are required to ascertain current wetland condition of Lake Monjingup and Koojedda Swamp. It is intended that these will be undertaken during the course of this review. However, no reports of degrading activities have been recorded since registration for Lake Monjingup. The wetland is being actively managed. Similarly, there have been no reports of degrading activities for Koojedda Swamp since protection in 2002.

4. ISSUES CONSIDERED BY THE EPA IN REVIEWING THE SOUTH WEST WETLANDS EPP

4.1 EFFECTIVENESS OF THE SOUTH WEST WETLANDS EPP

In conducting its review the EPA has examined in a preliminary way, the effectiveness of the policy in protecting south west wetlands. In light of the environmental performance of the policy, it is the EPA's view that the policy could have been more effective in protecting wetlands. The EPA attributes this to the policy's broad and overarching purpose which is not achievable within the policy's limited scope.

The purpose of the policy is to *“prevent the further degradation of valuable wetlands and to promote the rehabilitation of wetlands in the South West Agricultural Zone of the State”*. However, as described in section 2.2 above, there are many pressures (altered catchment water balances, drainage, development, salinity, acidity, pollutant discharge, dieback, weed encroachment and insensitive fire management) that can cause wetland degradation. The impact of salinity, acidity, dieback, weed encroachment and insensitive fire management are not directly addressed within the policy. The policy does not provide for the protection or management of wetlands from such complex pressures.

The EPA recognises that during the development of the policy in 1998 there were not many mechanisms in place to protect wetlands and that the best form of protection was through an environmental protection policy. Legislation in the form described in section 4.2 was not yet in existence, and there were few programs aimed at wetland protection and management.

In hindsight, it is the EPA's view that many of the pressures impacting wetlands could not have been prevented through the use of a single legislative instrument such as the South West Wetlands EPP. The EPA considers that to effectively protect wetlands there needs to be a holistic approach whereby legislative and non-legislative mechanisms are put in place.

4.2 OTHER WETLAND PROTECTION MECHANISMS

4.2.1 Statutory mechanisms for wetland protection

Since 1998 there has been much regulatory reform. Amendments to the EP Act in 2003 make it an offence to cause environmental harm. Under the EP Act, an 'alteration of the environment to its detriment or degradation or potential detriment or degradation' or an 'alteration of the environment to the detriment or potential detriment of an environmental value' is considered environmental harm. The definition of environmental harm also specifically includes harm involving removal or destruction of, or damage to native vegetation or the habitat of native vegetation or indigenous aquatic or terrestrial animals.

In 2004, the Government introduced strong controls for the clearing of native vegetation, including specific offences for unauthorised land clearing. The clearing provisions of the EP Act prohibit clearing of native vegetation, unless a clearing permit is granted by DEC or the clearing is for an exempt purpose. Exemptions do not apply in wetlands declared to be environmentally sensitive areas which include areas protected under the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992* (Lakes EPP) and the *Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998*. A review of the native vegetation clearing legislation is currently being undertaken to improve processes and environmental outcomes. The review will examine the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*, and those parts of the EP Act which make it an offence to clear native vegetation unless a permit is granted or an exemption applies.

Other existing legislative provisions for the protection of wetlands include the EPA's functions in relation to the assessment of proposals and schemes that may affect wetlands as part of the environmental impact assessment process under Part IV of the EP Act. EPA Guidance Statement 33, *Environmental Guidance for Planning and Development* (EPA, 2008) states that wetlands protected under the Lakes EPP and the South West Wetlands EPP are of high conservation significance, and require a high level of protection. Certain impacts to wetlands identified for protection pursuant to the Lakes EPP and South West Wetlands EPP are not permitted unless authorised. Typically, authorisation involves referral of the proposal to the EPA pursuant to section 38 of the EP Act (EPA, 2008).

Wetlands are also protected within the formal (public) conservation estate under the *Conservation and Land Management Act 1984* tenures (e.g. national park, nature reserve and State forest). A brief analysis using wetlands identified in *A Directory of Important Wetlands* (Environment Australia, 2006) which fall within the policy's boundary showed that approximately 60% (56,977 hectares) are managed by DEC as part of the conservation estate.

4.2.2 Non-statutory mechanisms for wetland protection

In addition to the existing statutory provisions, non-statutory measures are in place to protect wetlands such as policies and programs dedicated to the management of wetlands. Most of these mechanisms have been put in place since the policy came into effect. The EPA sought advice from DEC and the Wetlands Coordinating Committee, in relation to existing programs and the current review of the *Wetlands Conservation Policy for Western Australia 1997* (Wetlands Policy for WA, 1997).

Wetland policies

The 1997 Wetlands Policy for WA outlines the State Government's recognition of the important values of wetlands and commitment to protecting and managing Western Australia's wetlands. The policy establishes five principal objectives, with respect to the conservation of the State's wetland resource and a Strategy for Implementation. The Wetlands Coordinating Committee was established under the Wetlands Conservation

Policy for WA to coordinate the implementation of the policy. The Wetlands Policy for WA is currently being reviewed by the Wetlands Coordinating Committee.

The *State Salinity Strategy* released in 2000 (Government of Western Australia, 2000) lists specific goals for managing the impact of land salinisation in the south west agricultural region including wetlands. In response to the strategy, the State Government initiated a prioritisation methodology known as the Salinity Investment Framework. The Salinity Investment Framework is a new process that will help identify priorities and then guide investment to those projects with the best chance of protecting assets of high public value. Assets include productive land, water, including wetlands, biodiversity (native plants and animals) and rural infrastructure.

Wetland programs and incentives

DEC provides technical and financial assistance to private land managers of wetlands of high conservation value through *Healthy Wetland Habitats*, *Land for Wildlife*, and the *Nature Conservation Covenant Program*.

The *Healthy Wetland Habitats* program provides technical and financial help to private land managers of wetlands of high conservation value on the Swan Coastal Plain. Since the program's inception in 2006, there have been 14 landowners who have agreed to a Voluntary Management Agreement. A management action plan is prepared to implement the Voluntary Management Agreement and funding is offered to provide landowners assistance for prioritised actions for managing wetlands habitats, including fencing, weeding and replanting. *Land for Wildlife* is a voluntary program aimed to increase the area of wildlife habitat on lands under private management. Under the scheme, there are 133 properties with wetlands recorded as being managed for wildlife values, which represents approximately 9% of the total number of properties under the scheme. The *Nature Conservation Covenant Program* assists private landowners with the conservation of bushland of high nature conservation value by placing a protective covenant on the land's title, and by providing management advice and assistance through incentives and a stewardship program. The program has 11 properties registered which contain a wetland. This number represents approximately 28% of the total number of properties registered under the program.

There has also been strong growth in natural resource management programs since 1998. These programs seek to protect wetlands through collaborative programs and incentives. This includes projects such as recovery works for particularly high value wetlands such as Toolibin Lake of the Wheatbelt and the Lake Warden system of Esperance.

DEC continues to improve the knowledge of the wetlands of the south west. For example, through the continuing project '*Wetland Mapping, Classification and Evaluation Program for Priority Areas, South West WA*'. The aim of the project is to document the wetland resources of priority areas in the South West Catchment Council Natural Resource Management (NRM) boundary and ultimately inform wetland protection and management strategies. To date, wetlands of the Margaret River, Leeuwin-Naturaliste Ridge and Donnybrook-Nannup areas have been mapped.

Wetland surveys focusing on classifying wetland status according to environmental, cultural and social values have been undertaken in the South Coast NRM Region, as well as investment into wetland research and management. Wetlands with the potential to be affected by urban developments were identified as a first step toward increased protection of wetlands in management and land-use plans.

In the Avon NRM Region work is being done to identify the remaining high value aquatic assets that are critical for conservation planning. The Avon Baseline Project, funded by the Avon Catchment Council, aims to identify wetlands of high conservation significance so that they may be managed appropriately, and those of low conservation significance so they may be considered for other uses such as incorporation into drainage schemes. A major component of the project is to develop a framework outlining the process for evaluating and classifying wetlands into high, intermediate and low conservation significance values, and using the framework to do a first pass assessment of every mapped wetland in the Avon NRM Region. The framework will be incorporated into the drainage evaluation methodology being developed for the entire wheatbelt area by DEC, in conjunction with the Department of Water.

5. EPA OBSERVATIONS AND SUGGESTIONS

In considering the above issues, the EPA has made a number of observations which are presented below for the purpose of guiding understanding of the review of the South West Wetlands EPP.

The EPA recognises that since 1998, when the policy was approved, there have been significant reforms and initiatives that provide additional protection and management for wetlands. However, the EPA is also conscious of the continuing loss and degradation of wetlands in Western Australia; in particular the impact of rising salinity in the south west, and that improved policy and management action is required to reverse this trend.

The EPA also considers that the 1998 policy is not capable of achieving its stated broad and overarching purposes. A more focused policy may be more effective.

The EPA invites your comments on this review of the effectiveness of the South West Wetlands EPP in protecting wetlands in the south west agricultural zone, and suggestions for future protection mechanisms to prevent wetland loss and degradation in the south west of Western Australia.

The EPA is interested to hear your concerns and views on the following:

- Is the purpose of the policy appropriate, given the range of other existing management and protection mechanisms now in place?
- Should the policy be strengthened? If so how?
- Should the policy be revoked?
- What alternative or mix of approaches could be undertaken?

6. THE NEXT STEPS

Reviewing an environmental protection policy requires extensive public consultation to be undertaken under the EP Act. Consultation on the draft policy has commenced with the release of this document.

Once all public comments have been received, an analysis of submissions will be prepared and considered. A revised draft policy and recommendations will be prepared by the EPA and submitted to the Minister for Environment for consideration.

7. REFERENCES

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APPENDIX 1

DRAFT ENVIRONMENTAL PROTECTION (SOUTH WEST AGRICULTURAL ZONE WETLANDS) POLICY 2008

Environmental Protection (South West Agricultural Zone Wetlands) Policy 2008

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**Schedule 1 — Representation of
Environmental Protection Plan
No. 1**

Environmental Protection (South West Agricultural Zone Wetlands) Policy 2008

Prepared by the Authority under section 26(1)(d) of the Act.

Part 1 — Preliminary

1. Citation

This policy is the *Environmental Protection (South West Agricultural Zone Wetlands) Policy 2008*.

2. Purpose of policy

The purpose of this policy is to prevent the further degradation of valuable wetlands and to promote the rehabilitation of wetlands in the South West Agricultural Zone of the State.

3. Terms used in this policy

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

“authorised” means —

- (a) authorised by an authorised body; or
- (b) authorised under a written law before the commencement of this policy; or
- (c) carried out in accordance with —
 - (i) a proposal that has been or is being implemented in accordance with Part IV Division 2 of the Act following a referral to the Authority under section 38 of the Act; or

cl. 3

- (ii) an assessed scheme that has been or is being implemented under Part IV Division 4 of the Act following a referral to the Authority under a scheme Act;

or

- (d) authorised as clearing that is done as described in clause 10, 11 or 12 of Schedule 6 to the Act; or
- (e) authorised under the Act in accordance with —
 - (i) a standard prescribed for the purposes of clause 2(c)(i) of Schedule 6 to the Act; or
 - (ii) a works approval; or
 - (iii) a licence; or
 - (iv) a requirement contained in a closure notice, an environmental protection notice or a prevention notice; or
 - (v) a declaration under section 6 of the Act; or
 - (vi) an exemption under section 75 of the Act; or
 - (vii) a licence, permit, approval or exemption granted, issued or given under regulations made under the Act;

or

- (f) carried out in accordance with a notice under the *Bush Fires Act 1954* section 33; or
- (g) carried out under the *Energy Operators (Powers) Act 1979* section 54; or
- (h) authorised in accordance with a prescribed procedure;

“authorised body” means —

- (a) in relation to a wetland vested in the Conservation Commission established by the *Conservation and Land Management Act 1984* section 18 — the CEO as defined in section 3 of that Act; or

(b) in relation to the authorisation of the construction or alteration of a water drainage system for the purposes of clause 33 — the Commissioner of Soil and Land Conservation appointed under the *Soil and Land Conservation Act 1945* section 7; or

(c) a prescribed decision-making body;

“beneficial uses” means the beneficial uses declared under clause 19;

“biogeographic region” means an area of land in the policy area that is identified as a natural resource zone in Allison, H.E. *et al*, *Natural Resource Zones of the South West Land Division, Western Australia*, published in October 1993 by the Environmental Protection Authority, Perth, in Technical Series Bulletin 55;

“catchment management area” means the portion of the policy area to which a catchment management strategy applies;

“catchment management strategy” means a catchment management strategy developed under clause 25;

“clearing” has the meaning given in section 51A of the Act;

“district committee” means a land conservation district committee established under the *Soil and Land Conservation Act 1945* section 23(2);

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

“freehold”, in relation to land, means the fee simple, whether absolute, conditional or otherwise, of that land;

“ground water” means water below the surface of the ground that is at a pressure equal to or greater than atmospheric pressure and that is present throughout the year;

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

cl. 4

“owner”, in relation to a wetland or any other land, includes the person, body, agency or organisation with whom or which the care, control and management of the land is placed;

“policy area” means the area referred to in clause 4;

“prescribed” means prescribed by regulations made under the Act;

“protected wetland” means a wetland recorded in the Register;

“Register” means the register of wetlands in the policy area referred to in clause 6;

“Table” means a Table of the Register;

“this policy” means this environmental protection policy;

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

- (2) If a term is given a meaning in the Act, it has the same meaning in this policy.

4. Policy area

- (1) The policy area is the area of land known as the South West Agricultural Zone that is shown bordered in red on Environmental Protection Plan No. 1, that plan being certified by the Minister as the plan prepared for the purpose of defining the policy area.
- (2) The Department is to make Environmental Protection Plan No. 1 available for public inspection during normal office hours at the head office of the Department in Perth and copies of the plan available for public inspection during normal office hours at the other offices of the Department.
- (3) For information purposes, a representation of Environmental Protection Plan No. 1 is set out in Schedule 1.

Note: The policy area does not include the area defined as the Swan Coastal Plain in the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992* Schedule 1.

5. Application

This policy applies to land in the policy area.

Part 2 — Register of protected wetlands

6. The Register

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

7. Nominating wetlands to be recorded in the Register

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

8. Recording wetlands on freehold land

- (1) If —
- (a) a submission is made under clause 7(1) in respect of a wetland on land held in freehold; and
 - (b) the Authority is satisfied that the wetland should be recorded in the Register; and
 - (c) the Authority obtains the agreement of the owner of the wetland —
 - (i) for the wetland to be recorded in the Register; and
 - (ii) as to the appropriate Table in which to record the wetland;
- and
- (d) after consulting the owner of the wetland, the Authority confirms or corrects, as the case requires, the details referred to in clause 7(2) that apply to the wetland,
- the Authority is to record the wetland in the Register.
- (2) If the Authority cannot obtain the agreement of the owner of a wetland under subclause (1)(c)(i) or (ii), the Authority is not to record the wetland in the Register.

9. Recording wetlands on Crown land

- (1) If —
- (a) a submission is made under clause 7(1) in respect of a wetland on Crown land (other than Crown land to which clause 10 applies); and
 - (b) the Authority is satisfied that the wetland should be recorded in the Register; and
 - (c) the Authority obtains the agreement of any person, body, agency or organisation with which the care,

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control and management of the wetland is placed (the
“**relevant agency**”) —

- (i) for the wetland to be recorded in the Register;
and
- (ii) as to the appropriate Table in which to record the
wetland;

and

- (d) after consulting the relevant agency, the Authority
confirms or corrects, as the case requires, the details
referred to in clause 7(2) that apply to the wetland; and
- (e) the Authority obtains the written approval of the
Minister for the wetland to be recorded in the Register,

the Authority is to record the wetland in the Register.

- (2) If, within 120 days after receiving a submission referred to in
subclause (1)(a), the Authority cannot obtain the agreement of
the relevant agency under subclause (1)(c) in respect of a
wetland that the Authority considers should be recorded in the
Register, the Authority is to refer the matter to the Minister for
determination.
- (3) For the purposes of determining —
 - (a) whether or not a wetland is to be recorded in the
Register; and
 - (b) if a wetland is to be so recorded, in which Table it is to
be recorded,

the Minister is to consult the Minister responsible for the
relevant agency and may consult any person, body, agency or
organisation the Minister considers it appropriate to consult.

- (4) When a determination has been made, the Minister is to give
written notification of it to the Authority, and the Authority is to
give effect to the determination.

10. Wetlands on unallocated Crown land

- (1) If —
- (a) a submission is made under clause 7(1) in respect of a wetland on Crown land the care, control and management of which is not placed with any person, body, agency or organisation; and
 - (b) the Authority is satisfied that the wetland should be recorded in the Register,
- the Authority is to record the wetland in the Register.
- (2) The Authority may determine whether a wetland to be recorded in the Register under subclause (1) is to be recorded in Table 1 or 2.

11. Nominating wetlands to be corrected or to be deleted from the Register

- (1) Any person, body, agency or organisation (the “**proposer**”) may make a written submission to the Authority to propose that —
- (a) the entry in the Register in respect of any wetland be corrected; or
 - (b) a wetland recorded in the Register be deleted from the Register.
- (2) A submission made under subclause (1) is to include details of —
- (a) the name of the wetland (if applicable) and any other information that identifies the entry in the Register in respect of the wetland; and
 - (b) if the submission is made under subclause (1)(b), the condition of the wetland and any other information the proposer considers appropriate in support of deleting the wetland from the Register.

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- (3) The Authority may require additional written information to be submitted by the proposer in support of correcting an entry in the Register or deleting a wetland from the Register.

12. Correcting errors in the Register

If —

- (a) a submission is made under clause 11(1)(a); and
- (b) the Authority is satisfied that the entry in the Register in respect of the wetland is incorrect,

the Authority is to correct the entry in the Register.

13. Deleting wetlands from the register

(1) If —

- (a) a submission is made under clause 11(1)(b) in respect of a wetland on land held in freehold; and
- (b) the Authority is satisfied that the wetland should be deleted from the Register; and
- (c) the Authority obtains the agreement of the owner of the wetland for the wetland to be deleted from the Register,

the Authority is to delete the wetland from the Register.

(2) If —

- (a) a submission is made under clause 11(1)(b) in respect of a wetland on Crown land (other than Crown land to which clause 14 applies); and
- (b) the Authority is satisfied that the wetland should be deleted from the Register; and
- (c) the Authority obtains the agreement of any person, body, agency or organisation with which the care, control and management of the wetland is placed for the wetland to be deleted from the Register,

the Authority is to delete the wetland from the Register.

14. Wetlands on unallocated Crown land

If —

- (a) a submission is made under clause 11(1)(b) in respect of a wetland on Crown land the care, control and management of which is not placed with any person, body, agency or organisation; and
- (b) the Authority is satisfied that the wetland should be deleted from the Register,

the Authority is to delete the wetland from the Register.

15. Register to be available to the public

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

16. Wetlands recorded in Table 1 of the Register

- (1) A wetland is appropriately recorded in the Register in Table 1 if it is a wetland to which this clause applies.
- (2) This clause applies to a wetland —
 - (a) that the Authority is required under this Part to record in the Register; and
 - (b) that has a high degree of value for nature conservation or provides a habitat for fauna declared likely to become extinct, rare or otherwise in need of special protection, or for flora declared rare flora, under the *Wildlife Conservation Act 1950*.
- (3) A typical wetland to which this clause applies —
 - (a) may be a healthy functioning wetland with a high degree of naturalness; or

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- (b) may have a substantial amount of fringing or emergent native vegetation; or
- (c) may have significant cultural or human use values; or
- (d) may be one of the most natural wetlands in the biogeographic region.

17. Wetlands recorded in Table 2 of the Register

- (1) A wetland is appropriately recorded in the Register in Table 2 if it is a wetland to which this clause applies.
- (2) This clause applies to a wetland that the Authority is required under this Part to record in the Register and to which clause 16(2)(b) does not apply.
- (3) A wetland to which this clause applies may have significant natural or human use attributes and functions without having a high degree of naturalness.

18. Wetlands may be moved from one Table to the other Table

- (1) If —
 - (a) the Authority is satisfied that, because of changes that have taken place in respect of the wetland, a wetland recorded in one Table should be deleted from that Table and recorded in the other Table; and
 - (b) the Authority obtains the agreement to do so —
 - (i) if the wetland is on land held in freehold, of the owner of the wetland; or
 - (ii) if the wetland is on Crown land (other than Crown land to which subclause (2) applies), of any person, body, agency or organisation with which the care, control and management of the wetland is placed,

the Authority is to delete the wetland from that Table and record it in the other Table.

- (2) If the Authority is satisfied of the matters mentioned in subclause (1)(a) in respect of a wetland on Crown land the care, control and management of which is not placed with any person, body, agency or organisation, the Authority is to delete the wetland from the Table in which it is recorded and record it in the other Table.

19. Beneficial uses of protected wetlands

These are the uses of protected wetlands that are declared to be beneficial uses to be protected under this policy —

- (a) their use as a habitat for flora or fauna, including migratory or threatened species;
- (b) their use as a focus of cultural and heritage values for local communities;
- (c) their use as an intrinsic part of the natural surface and ground water drainage system of the policy area;
- (d) their use as an important aesthetic element of the natural landscape of the policy area;
- (e) their use as an important resource in studying the natural environment;
- (f) their use as a water resource for stock or irrigation;
- (g) their use as an important recreational element of the natural landscape of the policy area.

20. Environmental quality objective for protected wetlands

The environmental quality objective for protected wetlands is to maintain their beneficial uses and to maintain and, to the extent practicable, enhance their conservation values and natural attributes and functions.

Part 3 — Programme for protection of wetlands

21. Basis on which wetlands are to be protected

- (1) Many wetlands have been severely degraded or destroyed and many other wetlands are under considerable threat of being severely degraded or destroyed.
- (2) Industrial, residential and agricultural activities in the policy area continue to degrade wetlands by causing the loss of their native vegetation and the filling in, drainage, flooding, nutrient enrichment or increased salinity of wetlands.
- (3) The protection of wetlands requires —
 - (a) the planning and management of land use to prevent the degradation of wetlands; and
 - (b) the implementation of land use practices, such as extensive tree planting, to increase water use in the ground and surface water catchment areas of wetlands; and
 - (c) cooperation between the owners of land, the community and relevant government agencies; and
 - (d) the prevention or control of activities that degrade or destroy wetlands.

22. Activities that may degrade or destroy wetlands

The activities that may degrade or destroy wetlands include —

- (a) filling in wetlands with materials; and
- (b) discharging water into wetlands or excessive pumping or drainage of water from wetlands; and
- (c) carrying out excavation or mining operations in wetlands; and
- (d) damaging or clearing emergent or fringing native vegetation of wetlands; and
- (e) disposing of or discharging effluent into wetlands; and

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

23. Programme for protecting wetlands and their beneficial uses

The protection of wetlands and their beneficial uses is to be effected by —

- (a) land and water management plans being developed and implemented, on a regional, catchment area and farm basis, that promote the conservation of wetlands; and
- (b) the owners of wetlands on land held in freehold being encouraged and assisted to maintain, enhance and rehabilitate their wetlands on a voluntary basis; and
- (c) an understanding of this policy being promoted and its acceptance by all those affected by its implementation being encouraged; and
- (d) the cooperation of government agencies and industry organisations being sought in the implementation of this policy; and
- (e) activities that may degrade or destroy protected wetlands being prevented or controlled under Part 4; and
- (f) the Register being established; and
- (g) priority being given to the conservation of wetlands listed in Table 1 of the Register and to the implementation of catchment management strategies; and
- (h) the condition of protected wetlands being monitored, as appropriate; and

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- (i) economic incentives and measures being developed that promote and support the conservation, protection and rehabilitation of wetlands; and
- (j) research being undertaken and education being provided to facilitate the conservation of wetlands and the appropriate management of land in their catchment areas.

24. Best management practices

For the purposes of clause 23(a) and (j), the Authority, in association with —

- (a) the department of the Public Service principally assisting the Minister in the administration of the *Water Agencies (Powers) Act 1984*; and
- (b) the department of the Public Service principally assisting the Minister in the administration of the *Conservation and Land Management Act 1984*; and
- (c) the department of the Public Service principally assisting the Minister in the administration of the *Biosecurity and Agriculture Management Act 2007*,

is to develop best management practices for agriculture in the policy area and is to encourage the voluntary adoption of those practices by the owners of wetlands or other land in the policy area.

25. Development of catchment management strategies

- (1) For the purposes of clause 23(a) and (g) in relation to wetlands recorded in Table 1 of the Register, the Authority, in association with the Department, may develop catchment management strategies.
- (2) In developing a catchment management strategy, the Authority —
 - (a) is to consult with —

- (i) district committees and owners of wetlands or other land in the catchment management area to which the catchment management strategy is to apply; and
 - (ii) any other persons, bodies, agencies or organisations with whom or which the Authority considers it appropriate to consult;
- and
- (b) is to have regard to any submissions made to the Authority as a result of that consultation.
- (3) A catchment management strategy is to specify —
 - (a) the catchment management area; and
 - (b) the best management practices (which may be or include best management practices other than those developed under clause 24) appropriate to wetlands or other land in the catchment management area; and
 - (c) the persons, bodies, agencies or organisations responsible for implementing the best management practices appropriate to wetlands or other land in the catchment management area and the period or periods within which those practices are to be implemented; and
 - (d) the means of evaluating the effectiveness of the catchment management strategy in achieving the environmental quality objective for protected wetlands within the catchment management area; and
 - (e) any other matters approved by the Minister.
- (4) When the development of a catchment management strategy has been completed, the Authority is to publish it in a manner approved by the Minister.

26. Voluntary compliance with published catchment management strategies, and relationship with management plans

- (1) Compliance with a published catchment management strategy is on a voluntary basis, and, if there is any inconsistency between a published catchment management strategy and a management plan approved and in operation under the *Conservation and Land Management Act 1984* section 60, the management plan prevails to the extent of the inconsistency.
- (2) The Department is to make copies of published catchment management strategies available for public inspection during normal office hours at the offices of the Department.

27. Catchment management strategies to be reviewed by Department

- (1) The Department is to conduct a review of the effectiveness of a published catchment management strategy in achieving the objective referred to in clause 25(3)(d) as soon as practicable after the expiry of the period specified for the purposes of this subclause in the catchment management strategy or, if no period is so specified, after the expiry of 10 years from the date of its publication.
- (2) When conducting a review under subclause (1), the Department is to consult with the owners of wetlands in the relevant catchment management area and is to have regard to any submissions made to the Department as a result of that consultation.
- (3) Before conducting a review under subclause (1), the Department is to inform the Authority that the review is to take place, and the Authority is to provide the Department with any assistance reasonably required by the Department to conduct the review.

28. Partnership Agreement for Wetland Conservation

For the purposes of clause 23(c) and (d), the Department, in association with relevant government agencies and industry organisations, is to develop and publish, in a manner approved by the Minister, a document to be named the Partnership Agreement for Wetland Conservation —

- (a) that assists in the promotion, understanding, acceptance and implementation of this policy and in the achievement of its objectives; and
- (b) that informs those who may be affected by this policy, and the general public, of the principles of this policy and the procedures for its implementation.

Part 4 — Control of certain activities in relation to protected wetlands

29. Filling in protected wetlands prohibited

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

30. Excavation and mining in protected wetlands prohibited

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

31. Discharge or disposal of effluent into protected wetlands prohibited

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

32. Removal of water from protected wetlands on Crown land prohibited

- (1) Subject to subclause (2), a person must not cause or permit the removal of water from a protected wetland on Crown land unless the person is authorised to do so and is acting in accordance with that authorisation.
- (2) Subclause (1) does not apply to prohibit the removal of water —
 - (a) that is carried out to the extent necessary to avoid imminent risk of injury to a person or damage to property; or

- (b) that is carried out in accordance with a management plan approved and in operation under the *Conservation and Land Management Act 1984* section 60.

33. Construction or alteration of prescribed drainage system prohibited

A person must not cause or permit the construction or alteration of a water drainage system of a prescribed class in the policy area unless the person is authorised to do so and is acting in accordance with that authorisation.

34. Offences and penalties

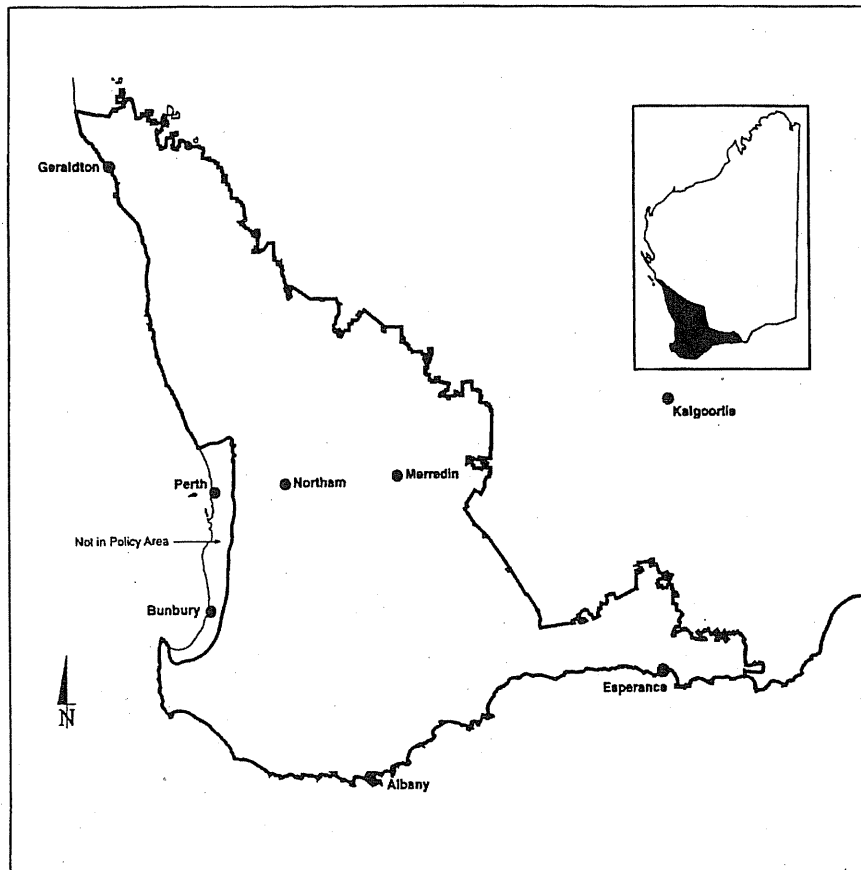
- (1) A person who contravenes clause 29, 30, 31, 32(1) or 33 commits an offence.

Penalty:

- (a) for an individual —
 - (i) a fine of \$62 500; and
 - (ii) in the case of a continuing offence, a daily fine of \$12 500;
 - (b) for a body corporate —
 - (i) a fine of \$125 000; and
 - (ii) in the case of a continuing offence, a daily fine of \$25 000.
- (2) An offence referred to in subclause (1) is declared to be a Tier 2 offence.

**Schedule 1 — Representation of Environmental Protection
Plan No. 1**

[cl. 4(3)]



Environmental Protection Authority

APPENDIX 2

ENVIRONMENTAL PROTECTION (SOUTH WEST AGRICULTURAL ZONE WETLANDS) POLICY 1998



5975



PERTH, WEDNESDAY, 28 OCTOBER 1998 No. 215 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

ENVIRONMENTAL PROTECTION ACT 1986

**ENVIRONMENTAL PROTECTION
(SOUTH WEST AGRICULTURAL
ZONE WETLANDS) POLICY
APPROVAL ORDER 1998**

ENVIRONMENTAL PROTECTION ACT 1986

**ENVIRONMENTAL PROTECTION
(SOUTH WEST AGRICULTURAL ZONE
WETLANDS) POLICY APPROVAL
ORDER 1998*****Background to the approval of this environmental protection policy***

The Government of Western Australia —

- (a) is conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational, aesthetic and natural values of biological diversity and its components;*
- (b) is concerned that the biological diversity of wetlands is being significantly reduced by certain human activities;*
- (c) notes that it is vital to anticipate, prevent and address the causes of significant reduction or loss of biological diversity;*
- (d) notes that the lack of complete scientific certainty in relation to a threat of significant reduction in or loss of biological diversity is not a reason for postponing measures to avoid or minimize the threatened reduction or loss;*
- (e) stresses the importance of, and the need to promote, local, regional and State cooperation between owners of land, groups that represent owners of land and government agencies and industry organizations;*
- (f) recognizes the historical nature of land use patterns and the economic needs of owners of land, industry and the State in general;*
- (g) recognizes that the production of agricultural goods needs to be achieved in a manner that sustains the capacity of land to continue to produce such goods and maintains and enhances the integrity of natural processes and biological diversity; and*
- (h) is determined to conserve the biological diversity of wetlands.*

Made by the Minister under section 31(d).

Citation

1. This order may be cited as the *Environmental Protection (South West Agricultural Zone Wetlands) Policy Approval Order 1998*.

Approval of environmental protection policy

2. The environmental protection policy set out in Schedule 1 is approved.

SCHEDULE 1

[Clause 2]

ENVIRONMENTAL PROTECTION ACT 1986**ENVIRONMENTAL PROTECTION (SOUTH WEST AGRICULTURAL
ZONE WETLANDS) POLICY 1998**

Approved by the Minister under section 31(d).

PART 1 — PRELIMINARY**Citation**

1. This policy may be cited as the *Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998*.

Purpose of policy

2. The purpose of this policy is to prevent the further degradation of valuable wetlands and to promote the rehabilitation of wetlands in the South West Agricultural Zone of the State.

Interpretation

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

“**authorized**” means —

- (a) authorized by an authorized body;
- (b) authorized under a written law before the commencement of this policy;
- (c) authorized under the Act in accordance with —
 - (i) a works approval;
 - (ii) a licence;
 - (iii) a requirement contained in a pollution abatement notice;
 - (iv) section 40(1)(a) of the Act (by a person being informed by the Authority under that provision that a proposal does not need to be assessed under Part IV of the Act);
 - (v) agreement reached or a decision made under section 45 of the Act;
 - (vi) a direction given under section 73 of the Act; or
 - (vii) an exemption granted under section 75 of the Act;

or

- (d) authorized in accordance with a prescribed procedure;

“**authorized body**” means —

- (a) in relation to a wetland vested in —
 - (i) the Lands and Forest Commission established by section 18 of the *Conservation and Land Management Act 1984*; or

(ii) the National Parks and Nature Conservation Authority established by section 21 of the *Conservation and Land Management Act 1984*,

the Executive Director, as defined in section 3 of the *Conservation and Land Management Act 1984*;

(b) in relation to the authorization of the construction or alteration of a water drainage system for the purposes of clause 34, the Commissioner of Soil and Land Conservation appointed under the *Soil and Land Conservation Act 1945*; or

(c) a prescribed decision-making body;

“beneficial uses” means the beneficial uses declared under clause 19;

“biogeographic region” means an area of land in the policy area that is identified as a natural resource zone in Allison, H.E. *et al*, *Natural Resource Zones of the South West Land Division, Western Australia*, published in October 1993 by the Environmental Protection Authority, Perth, in Technical Series Bulletin 55;

“catchment management area” means the portion of the policy area to which a catchment management strategy applies;

“catchment management strategy” means a catchment management strategy developed under clause 25;

“clearing” includes cutting down, removing or destroying;

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

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

“freehold”, in relation to land, means the fee simple, whether absolute, conditional or otherwise, of that land;

“ground water” means water below the surface of the ground that is at a pressure equal to or greater than atmospheric pressure and that is present throughout the year;

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

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

“owner”, in relation to a wetland or any other land, includes the person, body, agency or organization with whom or which the care, control and management of the land is placed;

“policy area” means the area referred to in clause 4;

“prescribed” means prescribed by regulations made under section 123 of the Act;

“protected wetland” means a wetland recorded in the Register;

“Table” means a Table of the Register;

“the Register” means the register of wetlands in the policy area referred to in clause 6;

“this policy” means this environmental protection policy;

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

(2) Words and expressions used in this policy that are given a meaning in the Act have the meaning so given.

Policy area

4. (1) The policy area is the area of land known as the South West Agricultural Zone that is shown bordered in red on Environmental Protection Plan No. 1, that plan being certified by the Minister as the plan prepared for the purpose of defining the policy area.

(2) The Department is to make Environmental Protection Plan No. 1 available for public inspection during normal office hours at the head office of the Department in Perth and copies of the plan available for public inspection during normal office hours at the other offices of the Department.

(3) For information purposes, a representation of Environmental Protection Plan No. 1 is set out in Schedule A.

Note: The policy area does not include the area defined as the Swan Coastal Plain in Schedule 1 to the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.

Application

5. This policy applies to land in the policy area.

PART 2 — THE REGISTER OF PROTECTED WETLANDS

The Register

6. (1) The Authority is to establish and maintain in accordance with this Part a register of wetlands protected under this policy.

(2) The Authority is to include as part of the information provided in the Register in respect of a protected wetland details of —

- (a) the Australian Map Grid co-ordinates that identify the location of the wetland; and
- (b) the name of the wetland (if applicable) and any other information that indicates the extent of the wetland.

(3) The Authority is to record wetlands in the Register in a manner that enables a person who consults the Register to determine whether any wetland so recorded is in Table 1 or Table 2.

Nominating wetlands to be recorded in the Register

7. (1) A person, body, agency or organization (“**the proposer**”) may make a written submission to the Authority to propose that a wetland be recorded in the Register.

(2) A submission made under subclause (1) is to include details of —

- (a) the Australian Map Grid co-ordinates that identify the location of the wetland;
- (b) the name of the wetland (if applicable) and any other information that indicates the extent of the wetland; and
- (c) the condition of the wetland and any other information the proposer considers appropriate in support of recording the wetland in the Register.

(3) The Authority may require additional written information to be submitted by the proposer in support of recording a wetland in the Register.

Recording wetlands on freehold land**8. (1) If —**

- (a) a submission is made under clause 7(1) in respect of a wetland on land held in freehold;
- (b) the Authority is satisfied that the wetland should be recorded in the Register;
- (c) the Authority obtains the agreement of the owner of the wetland —
 - (i) for the wetland to be recorded in the Register; and
 - (ii) as to the appropriate Table in which to record the wetland;
- and
- (d) after consulting the owner of the wetland, the Authority confirms or corrects, as the case requires, the details referred to in clause 7(2) that apply to the wetland,

the Authority is to record the wetland in the Register.

(2) If the Authority cannot obtain the agreement of the owner of a wetland under subclause (1)(c)(i) or (ii), the Authority is not to record the wetland in the Register.

Recording wetlands on Crown land**9. (1) If —**

- (a) a submission is made under clause 7(1) in respect of a wetland on Crown land (other than Crown land to which clause 10 applies);
- (b) the Authority is satisfied that the wetland should be recorded in the Register;
- (c) the Authority obtains the agreement of any person, body, agency or organization with which the care, control and management of the wetland is placed (**“the relevant agency”**) —
 - (i) for the wetland to be recorded in the Register; and
 - (ii) as to the appropriate Table in which to record the wetland;
- (d) after consulting the relevant agency, the Authority confirms or corrects, as the case requires, the details referred to in clause 7(2) that apply to the wetland; and
- (e) the Authority obtains the written approval of the Minister for the wetland to be recorded in the Register,

the Authority is to record the wetland in the Register.

(2) If, within 120 days after receiving a submission referred to in subclause (1)(a), the Authority cannot obtain the agreement of the relevant agency under subclause (1)(c) in respect of a wetland that the Authority considers should be recorded in the Register, the Authority is to refer the matter to the Minister for determination.

(3) For the purposes of determining —

- (a) whether or not a wetland is to be recorded in the Register; and
- (b) if a wetland is to be so recorded, in which Table it is to be recorded,

the Minister is to consult the Minister responsible for the relevant agency and may consult any person, body, agency or organization the Minister considers it appropriate to consult.

(4) When a determination has been made, the Minister is to give written notification of it to the Authority, and the Authority is to give effect to the determination.

Wetlands on unallocated Crown land

10. (1) If —

- (a) a submission is made under clause 7(1) in respect of a wetland on Crown land the care, control and management of which is not placed with any person, body, agency or organization; and
- (b) the Authority is satisfied that the wetland should be recorded in the Register,

the Authority is to record the wetland in the Register.

(2) The Authority may determine whether a wetland recorded in the Register under subclause (1) is to be recorded in Table 1 or Table 2.

Nominating wetlands to be corrected or to be deleted from the Register

11. (1) Any person, body, agency or organization (“**the proposer**”) may make a written submission to the Authority to propose that —

- (a) the entry in the Register in respect of any wetland be corrected; or
- (b) a wetland recorded in the Register be deleted from the Register.

(2) A submission made under subclause (1) is to include details of —

- (a) the name of the wetland (if applicable) and any other information that identifies the entry in the Register in respect of the wetland; and
- (b) if the submission is made under paragraph (b) of that subclause, the condition of the wetland and any other information the proposer considers appropriate in support of deleting the wetland from the Register.

(3) The Authority may require additional written information to be submitted by the proposer in support of correcting an entry in the Register or deleting a wetland from the Register.

Correcting errors in the Register

12. If —

- (a) a submission is made under clause 11(1)(a); and
- (b) the Authority is satisfied that the entry in the Register in respect of the wetland is incorrect,

the Authority is to correct the entry in the Register.

Deleting wetlands from the Register

13. (1) If —

- (a) a submission is made under clause 11(1)(b) in respect of a wetland on land held in freehold;
- (b) the Authority is satisfied that the wetland should be deleted from the Register; and
- (c) the Authority obtains the agreement of the owner of the wetland for the wetland to be deleted from the Register,

the Authority is to delete the wetland from the Register.

(2) If —

- (a) a submission is made under clause 11(1)(b) in respect of a wetland on Crown land (other than Crown land to which clause 14 applies);
- (b) the Authority is satisfied that the wetland should be deleted from the Register; and
- (c) the Authority obtains the agreement of any person, body, agency or organization with which the care, control and management of the wetland is placed for the wetland to be deleted from the Register,

the Authority is to delete the wetland from the Register.

Wetlands on unallocated Crown land

14. If —

- (a) a submission is made under clause 11(1)(b) in respect of a wetland on Crown land the care, control and management of which is not placed with any person, body, agency or organization; and
- (b) the Authority is satisfied that the wetland should be deleted from the Register,

the Authority is to delete the wetland from the Register.

Register to be available to public

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

Wetlands recorded in Table 1 of the Register

16. (1) A wetland is appropriately recorded in the Register in Table 1 if it is a wetland to which this clause applies.

(2) This clause applies to a wetland —

- (a) that the Authority is required under this Part to record in the Register; and
- (b) that has a high degree of value for nature conservation or provides a habitat for fauna declared likely to become extinct, rare or otherwise in need of special protection, or for flora declared rare flora, under the *Wildlife Conservation Act 1950*.

(3) A typical wetland to which this clause applies —

- (a) may be a healthy functioning wetland with a high degree of naturalness;
- (b) may have a substantial amount of fringing or emergent native vegetation;
- (c) may have significant cultural or human use values; or
- (d) may be one of the most natural wetlands in the biogeographic region.

Wetlands recorded in Table 2 of the Register

17. (1) A wetland is appropriately recorded in the Register in Table 2 if it is a wetland to which this clause applies.

(2) This clause applies to a wetland that the Authority is required under this Part to record in the Register and to which clause 16(2)(b) does not apply.

(3) A wetland to which this clause applies may have significant natural or human use attributes and functions without having a high degree of naturalness.

Wetlands may be moved from one Table to the other Table

18. (1) If —

- (a) the Authority is satisfied that, because of changes that have taken place in respect of the wetland, a wetland recorded in one Table should be deleted from that Table and recorded in the other Table; and
- (b) the Authority obtains the agreement to do so of —
 - (i) if the wetland is on land held in freehold, the owner of the wetland; or
 - (ii) if the wetland is on Crown land (other than Crown land to which subclause (2) applies), any person, body, agency or organization with which the care, control and management of the wetland is placed,

the Authority is to delete the wetland from that Table and record it in the other Table.

(2) If the Authority is satisfied of the matters mentioned in subclause (1)(a) in respect of a wetland on Crown land the care, control and management of which is not placed with any person, body, agency or organization, the Authority is to delete the wetland from the Table in which it is recorded and record it in the other Table.

Beneficial uses of protected wetlands

19. The uses of protected wetlands that are declared to be beneficial uses to be protected under this policy are —

- (a) their use as a habitat for flora or fauna, including migratory or threatened species;
- (b) their use as a focus of cultural and heritage values for local communities;
- (c) their use as an intrinsic part of the natural surface and ground water drainage system of the policy area;
- (d) their use as an important aesthetic element of the natural landscape of the policy area;
- (e) their use as an important resource in studying the natural environment;
- (f) their use as a water resource for stock or irrigation; and
- (g) their use as an important recreational element of the natural landscape of the policy area.

Environmental quality objective for protected wetlands

20. The environmental quality objective for protected wetlands is to maintain their beneficial uses and to maintain and, to the extent practicable, enhance their conservation values and natural attributes and functions.

PART 3 — PROGRAMME FOR PROTECTION OF WETLANDS

Basis on which wetlands are to be protected

21. (1) Many wetlands have been severely degraded or destroyed and many other wetlands are under considerable threat of being severely degraded or destroyed.

(2) Industrial, residential and agricultural activities in the policy area continue to degrade wetlands by causing the loss of their native vegetation and the filling in, drainage, flooding, nutrient enrichment or increased salinity of wetlands.

(3) The protection of wetlands requires —

- (a) the planning and management of land use to prevent the degradation of wetlands;
- (b) the implementation of land use practices, such as extensive tree planting, to increase water use in the ground and surface water catchment areas of wetlands;
- (c) cooperation between the owners of land, the community and relevant government agencies; and
- (d) the prevention or control of activities that degrade or destroy wetlands.

Activities that may degrade or destroy wetlands

22. The activities that may degrade or destroy wetlands include —

- (a) filling in wetlands with materials;
- (b) discharging water into wetlands or excessive pumping or drainage of water from wetlands;
- (c) carrying out excavation or mining operations in wetlands;
- (d) damaging or clearing emergent or fringing native vegetation of wetlands;
- (e) disposing of or discharging effluent into wetlands;
- (f) engaging in active recreation in wetlands, such as water skiing, horse riding and off-road driving;
- (g) permitting stock to enter wetlands for watering and grazing;
- (h) introducing exotic flora or exotic or feral fauna into wetlands;
- (i) inappropriate burning-off in wetlands; and
- (j) harvesting aquatic flora or fauna in wetlands.

Programme for protecting wetlands and their beneficial uses

23. The protection of wetlands and their beneficial uses is to be effected by —

- (a) land and water management plans being developed and implemented, on a regional, catchment area and farm basis, that promote the conservation of wetlands;
- (b) the owners of wetlands on land held in freehold being encouraged and assisted to maintain, enhance and rehabilitate their wetlands on a voluntary basis;

- (c) an understanding of this policy being promoted and its acceptance by all those affected by its implementation being encouraged;
- (d) the cooperation of government agencies and industry organizations being sought in the implementation of this policy;
- (e) activities that may degrade or destroy protected wetlands being prevented or controlled under Part 4;
- (f) the Register being established;
- (g) priority being given to the conservation of wetlands listed in Table 1 of the Register and to the implementation of catchment management strategies;
- (h) the condition of protected wetlands being monitored, as appropriate;
- (i) economic incentives and measures being developed that promote and support the conservation, protection and rehabilitation of wetlands; and
- (j) research being undertaken and education being provided to facilitate the conservation of wetlands and the appropriate management of land in their catchment areas.

Best management practices

24. For the purposes of clause 23(a) and (j), the Authority, in association with —

- (a) the Water and Rivers Commission established under the *Water and Rivers Commission Act 1995*;
- (b) the Department of Conservation and Land Management; and
- (c) Agriculture Western Australia,

is to develop best management practices for agriculture in the policy area and is to encourage the voluntary adoption of those practices by the owners of wetlands or other land in the policy area.

Development of catchment management strategies

25. (1) For the purposes of clause 23(a) and (g) in relation to wetlands recorded in Table 1 of the Register, the Authority, in association with the Department, may develop catchment management strategies.

(2) In developing a catchment management strategy, the Authority —

- (a) is to consult with —
 - (i) district committees and owners of wetlands or other land in the catchment management area to which the catchment management strategy is to apply; and
 - (ii) any other persons, bodies, agencies or organizations with whom or which the Authority considers it appropriate to consult;

and

- (b) is to have regard to any submissions made to the Authority as a result of that consultation.

(3) A catchment management strategy is to specify —

- (a) the catchment management area;

- (b) the best management practices (which may be or include best management practices other than those developed under clause 24) appropriate to wetlands or other land in the catchment management area;
- (c) the persons, bodies, agencies or organizations responsible for implementing the best management practices appropriate to wetlands or other land in the catchment management area and the period or periods within which those practices are to be implemented;
- (d) the means of evaluating the effectiveness of the catchment management strategy in achieving the environmental quality objective for protected wetlands within the catchment management area; and
- (e) any other matters approved by the Minister.

(4) When the development of a catchment management strategy has been completed, the Authority is to publish it in a manner approved by the Minister.

Compliance with published catchment management strategies to be voluntary, and relationship with management plans

26. (1) Compliance with a published catchment management strategy is on a voluntary basis, and, if there is any inconsistency between a published catchment management strategy and a management plan approved and in operation under section 60 of the *Conservation and Land Management Act 1984*, the management plan prevails to the extent of the inconsistency.

(2) The Department is to make copies of published catchment management strategies available for public inspection during normal office hours at the offices of the Department.

Catchment management strategies to be reviewed by Department

27. (1) The Department is to conduct a review of the effectiveness of a published catchment management strategy in achieving the objective referred to in clause 25(3)(d) as soon as practicable after the expiry of the period specified for the purposes of this subclause in the catchment management strategy or, if no period is so specified, after the expiry of 10 years from the date of its publication.

(2) When conducting a review under subclause (1), the Department is to consult with the owners of wetlands in the relevant catchment management area and is to have regard to any submissions made to the Department as a result of that consultation.

(3) Before conducting a review under subclause (1), the Department is to inform the Authority that the review is to take place, and the Authority is to provide the Department with any assistance reasonably required by the Department to conduct the review.

Partnership Agreement for Wetland Conservation

28. For the purposes of clause 23(c) and (d), the Department, in association with relevant government agencies and industry organizations, is to develop and publish, in a manner approved by the Minister, a document to be named the Partnership Agreement for Wetland Conservation —

- (a) that assists in the promotion, understanding, acceptance and implementation of this policy and in the achievement of its objectives; and
- (b) that informs those who may be affected by this policy, and the general public, of the principles of this policy and the procedures for its implementation.

PART 4 — CONTROL OF CERTAIN ACTIVITIES IN RELATION TO PROTECTED WETLANDS

Filling in protected wetlands prohibited

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

Excavation and mining in protected wetlands prohibited

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

Discharge or disposal of effluent into protected wetlands prohibited

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

Removal of water from protected wetlands on Crown land prohibited

32. (1) Subject to subclause (2), a person shall not cause or permit the removal of water from a protected wetland on Crown land unless the person is authorized to do so and is acting in accordance with that authorization.

(2) Subclause (1) does not apply to prohibit the removal of water —

- (a) that is carried out to the extent necessary to avoid imminent risk of injury to a person or damage to property; or
- (b) that is carried out in accordance with a management plan approved and in operation under section 60 of the *Conservation and Land Management Act 1984*.

Damaging or clearing of native vegetation at or from protected wetland prohibited

33. (1) Subject to subclause (2), a person shall not cause or permit the damaging or clearing of emergent or fringing native vegetation at or from a protected wetland unless the person is authorized to do so and is acting in accordance with that authorization.

(2) Subclause (1) does not apply to prohibit the clearing of native vegetation —

- (a) that is carried out to the extent necessary to avoid imminent risk of injury to a person or damage to property;
- (b) that is carried out in accordance with the *Bush Fires Act 1954*;
- (c) that is carried out in accordance with a management plan approved and in operation under section 60 of the *Conservation and Land Management Act 1984*; or
- (d) that is carried out to the extent authorized by a licence issued under the *Wildlife Conservation Act 1950*.

Construction or alteration of prescribed drainage systems prohibited

34. A person shall not cause or permit the construction or alteration of a water drainage system of a prescribed class in the policy area unless the person is authorized to do so and is acting in accordance with that authorization.

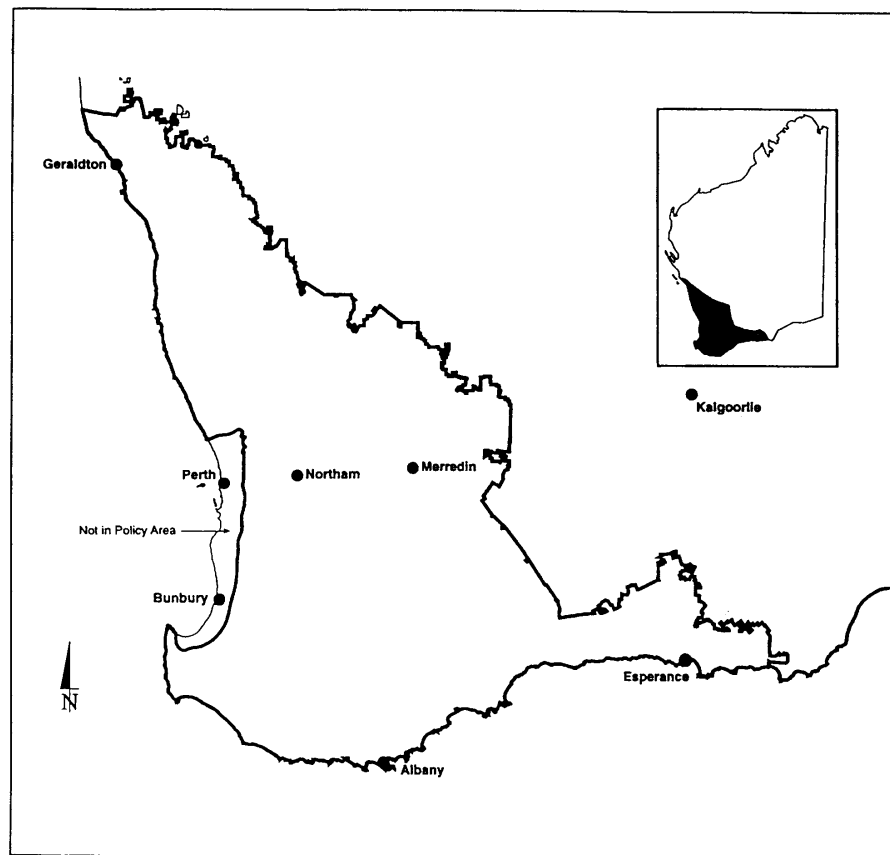
Offences and penalties

35. A person who contravenes clause 29, 30, 31, 32(1), 33(1) or 34 commits an offence.

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

SCHEDULE A

[Clause 4(3)]

**REPRESENTATION OF ENVIRONMENTAL PROTECTION
PLAN No. 1**

C. L. EDWARDES, Minister for the Environment.

APPENDIX 3

SUMMARY OF WETLAND CONDITION FOR THE TWO REGISTERED WETLANDS

It should be noted that the following summary of wetland conditions is derived mostly from the wetland assessments undertaken as part of the registration process and that recent wetland condition assessments have not been conducted. It is intended that during the course of the review the wetlands will be assessed.

Lake Monjingup

Lake Monjingup is located in the Shire of Esperance 10km north west of Esperance along Telegraph Road. A wetland assessment was undertaken in February 2000 (DEP, 2000) as part of the wetland nomination (for registration) process. The wetland is a permanent and fresh waterbody. It has recognised conservation values being a Class A Nature Reserve, but also supports beneficial uses such as tourism, bird watching, education, bushwalking and picnicing. The wetland reserve has native vegetation of about 80-100% cover including *Melaleuca*, *Banksia*, *Agonis*, *Eucalyptus* and *Nuytsia* species. *Zamia* palms in the reserve are believed to be 1000 years old. The lake is covered by 10-20% emergent vegetation of rushes and *Melaleuca*. A comprehensive list of flora and fauna present at the wetland reserve was identified in 1996 in separate studies (Craig, 1996; Moloch Fauna Consultants, 1996). The wetland is intermittently fed by a northern stream which drains cattle grazing land in the catchment. Small areas of degraded vegetation are recognised in areas that cater for tourists (ie. car park, picnic areas). There is no evidence of water quality testing although no cases of algal blooms or bird deaths have been reported.

Broad biodiversity assessments were also undertaken for the *Terrestrial Biodiversity Assessment Report 2002* (NLWRA, 2002). The wetland complex was identified as a permanent fresh lake that is an “important aggregation site for fauna”. Biodiversity condition was assessed to be “fair” and with a “declining” trend for which “recovery requires significant intervention”. Identified specific threatening processes included altered water regimes, salinisation, feral animals and pollution.

The Friends of Lake Monjingup group is actively involved in the ongoing management of the wetland, park facilities and undertaking rehabilitation activities where needed. The wetland is fenced from adjacent grazing farmland and the southern edge of the lake is bound by Telegraph Road. There has been active control of rabbits in the past.

Koojedda Swamp

Koojedda Swamp is located in the Shire of Northam 25km west south west of Northam along the Great Northam Highway. A wetland assessment was undertaken in July 2001 (DEP, 2001) as part of the wetland nomination (for registration) process. This wetland is currently a swamp, but anecdotal evidence indicates that it was once a spring fed lake prior to a railroad being constructed over the spring. The swamp has the presence of flooded fums and the swamp lily (*Ottelia ovalifolia*) indicating the presence of permanent water (Northam Environmental Society, 1993). It is situated on Crown land and has several cleared areas consisting of a Farming Heritage Trail (registered under the Heritage Council) and the Mundaring Weir to Kalgoorlie pipeline which transects the

centre of the swamp. Its beneficial uses include passive recreation such as bushwalking, riding, education and bird watching. It is also regarded as being an Indigenous culturally significant site. The dominant native vegetation species include *Melaleuca*, *Eucalyptus* and *Isolepis* species. Several mature *Wandoo* trees are present and there is significant emergent and fringing vegetation with the exception of cleared areas. The wetland is recognized as an important part of an ecological corridor for native fauna and has a role in the treatment of local drainage.

There is no management body actively managing the wetland. Avon Valley Environmental Society Inc has an interest in overseeing the protection of the wetlands. Fencing is only present on the eastern side of the wetland (adjacent to grazing farm land) and borders Great Eastern Highway to the south.

Flow diagram of the Environmental Protection Policy process under the *Environmental Protection Act 1986* showing the statutory (light grey boxes) and non-statutory (white boxes) stages.

