

## BACKGROUND PAPER

### Native Flora Protection Act 1935-38

At present, protection of flora native to Western Australia is the responsibility of the Minister for Forests pursuant to the Native Flora Protection Act 1935-38.

Under Section 5 of the Act the Governor may notify by proclamation published in the Gazette that any wildflower or native plant specified in the proclamation is protected.

By Proclamation dated August 7, 1963, the Minister revoked all previous proclamations and thereafter, placed a blanket protection on all wildflowers and native plants on -

- (a) All Crown lands, State forests, lands reserved for a public purpose under the provisions of the Land Act 1933 or any other Act and every road within the South West and Eucla Divisions of the State within the meaning of the Land Act 1933.
- (b) All parts of the State outside the said Divisions that are reserved under the provisions of the Land Act 1933 for the protection of indigenous flora or fauna.

Two later proclamations dated January 23, 1969 and August 12, 1970, placed a complete ban on the taking of Sturt Pea (*Clianthus speciosus*) and Current or Maroon Bush (*Scaevola spinescens*) throughout the State of Western Australia.

The Act however has no jurisdiction over private freehold land though a person taking native flora from such land must have the written authority of the owner.

### Forests Act 1918-76

The Forests Act confers on the Forests Department the exclusive control and management of all forest produce on State forest, timber reserves and vacant Crown land (as defined in the Forests Act 1918-76).

The Act provides for the issue of Forest Produce Licenses authorising the holder to take such produce during such period and in such area as is specified on the license. The periods vary according to requirements and seasons but do not exceed 12 months and are subject to renewal each year.

### Royalties

The Forests Act provides for the collection of royalties from the holders of Forest Produce Licenses. Such fees are payed in advance by the license holder who must declare which type of produce he intends to collect and in what quantity. Fees vary for each type of produce and are contained in a scale (copy attached).

### Road Verges

Control of road verges throughout the State is shared by various authorities and Government Departments. In general the Main Roads Department control main roads and highways. Local authorities control secondary roads (which make up the bulk of the road system) and the Forests Department control verges through State forest and timber reserves.

Verge widths vary from area to area, some as narrow as one chain ranging as wide as 10 chains from the boundary on one side of the road to the boundary on the other side.

The Forests Department have followed a policy of excluding road verges from Forest Produce Licenses.

On the "Authority to Collect Wildflowers" issued pursuant to Section 11 of the Native Flora Protection Act 1935-38 it is an express condition that no seed, propagation material or plants are to be obtained from within 50 metres of the centre line of any road or forest track.

### Flora Conservation - Wildlife Conservation Act Amendment Act 1976 and Wildlife Conservation Act Amendment Act 1979

Once proclaimed the Amending Acts will repeal the Native Flora Protection Act 1935-38 and make the Minister for Fisheries and Wildlife responsible for conservation of flora throughout Western Australia.

The Minister will be empowered to declare by notice published in the Government Gazette that -

- (a) all flora or a specified class or description of flora be protected throughout part or whole of the State.
- (b) any class or description of flora (which in his opinion is likely to become extinct, is rare or otherwise in need of protection) is rare within the meaning of the Amending Acts throughout the State and therefore cannot be taken without the express consent of the Minister.

### Crown Land

Under the new legislation, protected flora on Crown Land is deemed to be vested in the Crown and cannot be taken without a license.

Commercial Pickers (e.g. cut flowers, seed collectors) who operate on Crown Land must have a Commercial Purposes License and submit monthly returns.

Persons involved in scientific research or amateurs wishing to collect specimens for hobby purposes must have a Scientific Purposes or Prescribed Purposes License to take protected flora from Crown Land. Such license entitles the holder to collect sufficient quantities of flora for their prescribed use only - no flora so taken may be sold.

Private Land

No person may take protected flora from private land unless he is the owner or occupier or does so with the permission of the owner or occupier. Flora so taken cannot be sold unless that person is the holder of either a Commercial Producer's License or a Nurseryman's License. (A Commercial Producer is a person who sells flora taken by him or his employee from private land while a Nurseryman is a person who sells flora grown or cultivated by him on private land.)

681/71  
28 February 1980  
JWG:VH

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PROPOSED LIST OF PLANTS TO BE GAZETTED AS RARE UNDER THE WILDLIFE  
CONSERVATION ACT.

I have read with interest your memorandum of 19 February 1980.

1. My view is that as many species as possible should be gazetted, in order to provide a focus for controlling exploitation of native plant communities, as well as the obvious purpose of saving rare species. I am unable to say how able your Department is to handle administratively the larger number.
2. If pruning were to prove necessary I agree with the principles you have outlined<sup>td</sup> for reducing numbers.
3. The manuscript names of undescribed species should be excluded, as well as the style "aff.". The only acceptable, and legally defensible, way I can see to refer to these is by collection or specimen number, e.g. "Conostylis sp. (undescribed), P. Jones 2468, Western Australian Herbarium".
4. Concerning the list itself, I am unable to suggest additions or deletions, but I have noticed the following apparent errors:

For Darwinia masoni	read Darwinia masonii
" Drakea	" Drakaea
" Drynaria	" Doryopteris
" Schizea	" Schizaea
" Thelemitra	" Thelymitra
" Synaphea	" Synaphea

(Dr. J.W. Green)  
CURATOR  
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