

The *Biodiversity Conservation Act 2016*



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Conservation and Attractions**



*We're working for
Western Australia.*

Biodiversity Conservation Act 2016 & Biodiversity Conservation Regulations 2018

- ✘ *Wildlife Conservation Act 1950*
- ✘ *Sandalwood Act 1929*



- 25 years in the making
- Election commitment by Barnett Government provided impetus

Interaction with other legislation

- BC Act operates alongside & does not replace:
 - ✓ *Environment Protection Act 1986*
 - ✓ *CALM Act 1984*
 - ✓ *Fish Resources Management Act 1994/Aquatic Resources Management Act*
 - ✓ *Biosecurity and Agriculture Management Act 2007*
 - ✓ *EPBC Act 1999*






Biodiversity Conservation Act 2016 & Biodiversity Conservation Regulations 2018

- ✓ Part 2: Listings
- ✓ Part 3: Authorisations
- ✓ Part 4: Critical Habitat
- ✓ Part 5: Biodiversity Management Programmes
- ✓ Part 6: Recovery Plans
- ✓ Parts 7&8: Biodiversity Conservation Agreements & Covenants
- ✓ Part 10: Fauna & flora protection/penalties
- ✓ BC Regs: Biodiversity Licencing





Part 2 – Listing of native species, ecological communities and threatening processes

- Basic criteria in Act for nominating and listing:
 - Threatened Species
 - Threatened Ecological Communities
 - Key Threatening Processes
 - Specially Protected Species
 - The Act provides for Ministerial Guidelines to detail;
 - IUCN criteria as source documents
 - Common Assessment Method for aligning species under EPBC
 - Role of the Committees – TSSC, TECSC
 - Transition of current lists of TS
 - No change to Priority species
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Part 3 – Threatened species and ecological communities (Authorisations)

- s40 - Minister may authorise taking or disturbance of TS
- s45 - Minister may authorise modification of occurrence of TEC
- Are NOT licences under BC Regs
- Are an instrument of ministerial authorisation and must be applied for via a separate process
- Flora – similar to WC Act ('DRF permit')
- New process for fauna & TECs
- Conditions may be applied





Part 4 – Critical habitat

- Habitat critical to survival of TS or TEC may be listed, placed on register
 - No formal nomination process, Ministerial Guideline in place
 - May be identified in recovery plans associated with threats
 - May be nominated in association with a listing nomination
 - TSSC & TECSC – scientific advice to Minister
 - Direct consultation with landholders before listing
 - Critical habitat areas may be subject to habitat conservation notices (HCN)
 - HCNs can require prevention of damage and repair of damage – penalties apply based on threat status
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Part 5 – Biodiversity Management Programs

- Can be prepared for the conservation, protection and management of:
 - native species (not TS); &/or
 - ecological communities (not TECs);
- Consultation with Conservation and Parks Commission and affected persons
- Ministerial approval
- There are none that have been approved under this Act. In future likely to be BMPs for sandalwood, kangaroos, flora harvesting.






Part 6 – Recovery plans and interim recovery plans

- For listed TS &/or TECs
 - Guide conservation, protection & management
 - Prepared when deemed necessary to stop decline & support recovery, to maximise chances of long-term survival in the wild
 - Full recovery plans (RP) – 10 years:
 - good scientific information available
 - provides for research & management actions
 - must identify Critical Habitat^H, critical populations & occurrences, KTPs
 - Interim recovery plans (IRP) – 5 years:
 - insufficient scientific information available for RP
 - Public authorities – must have regard
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Part 6 – Recovery plans and interim recovery plans

- Drafted by DBCA Species and Communities Program
 - Have regard to resources/cost
 - Consultation by CEO:
 - ✓ WA Conservation and Parks Commission (RP & IRP)
 - ✓ RP – each owner or occupier of land
 - ✓ RP – those implementing & evaluating the plan
 - ✓ IRP – consult with those likely materially affected
 - RP – publicise, public submissions (60 days), referrals, Minister
 - Can adopt or make joint RPs
 - Approved RP & IRP – *Gazette* – DBCA website
 - Review of plans – RP 10y; IRP 5y
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Part 7 – Biodiversity conservation agreements

Part 8 – Biodiversity conservation covenants

- Land protection and management tools
- Restrict the use of &/or carry out a specified activity on the land
- Placed on land title – binding on future owners
- **Part 7 – agreement with Minister**
 - Facilitate ecologically sustainable use of biodiversity; or
 - Mitigate/prevent activities with adverse impact on biodiv; or
 - Promote or enhance biodiversity conservation in WA.
 - May provide for Minister to assist.
- **Part 8 – covenant with CEO**
 - Conservation, protection or management of biodiversity, SPS, TS, TEC



Part 10 – Fauna and flora

- Fauna is vested in the State (not fish, pearl oysters)
 - Flora on Crown land is vested in the State
 - Cease to be vested in the State when taken by a person who has lawful authority to take
 - (s7) Lawful authority = authorised under BC, CALM, EP Act or State agreement & biodiversity conditions complied with
 - TS – penalties \$300,000 (VU) - \$500,000 (CR) (max \$2.5m)
 - Taking, possessing, disturbing, feeding, dealing, import/export....
 - Penalty \$50K (native species), \$200K SP, \$500K cetacean
 - Sandalwood \$200,000
 - Aboriginal customary purposes - authorised to take flora/fauna
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BC Regulations – biodiversity licencing

- CEO licencing guidelines under development
- Existing Wildlife Conservation Act & Sandalwood licences transitioned
- New licence types:
 - Flora (incl. sandalwood) industry – dealers and processors
 - Firewood – licence supply from private property
 - Flora or fauna bioprospecting
 - Flora or fauna biological survey & salvage/relocation
 - Wildlife rehabilitators
- **Part 7 of Regs – Translocation of flora**
 - Approval of translocation proposals by CEO



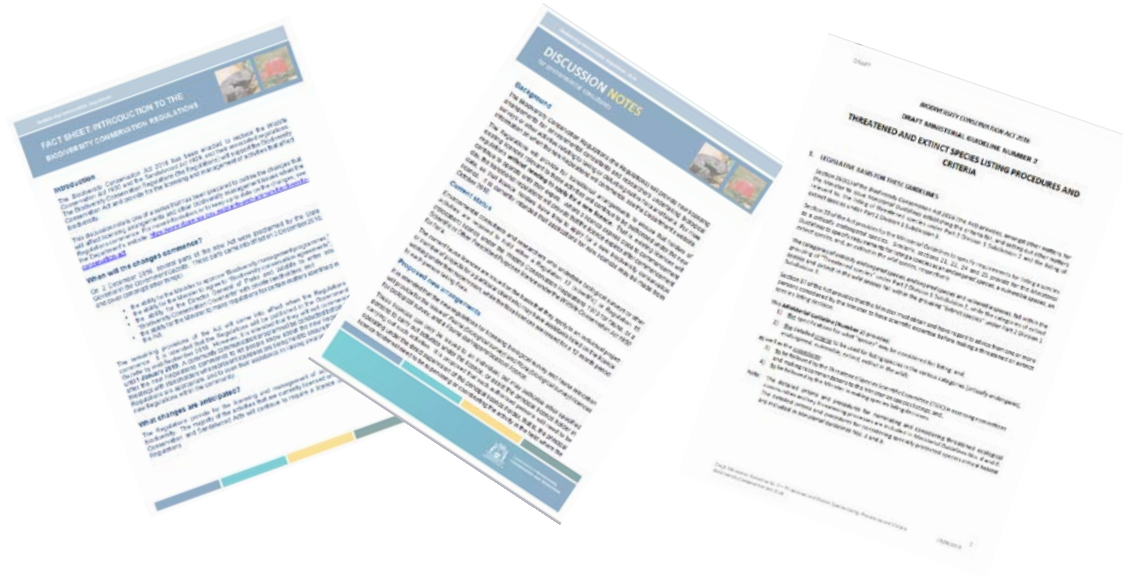
Biodiversity Licensing System (in development)

- Single login to all licences and licensing information
- On-line licence applications, payments, amendments, submission of returns etc.



Further Information

- DBCA web page:
 - <https://www.dpaw.wa.gov.au/plants-and-animals/biodiversity-conservation-act-regulations>
 - Information notes for different sectors
 - Ministerial Guidelines
- biodiversity@dbca.wa.gov.au



DBCA acknowledges the Traditional Owners of land throughout Western Australia



Eremophila viscida



Darwinia polychroma



Caladenia williamsiae



Western Ground Parrot
(Alan Danks)

Bilby
(Scott Thompson)

Brixton Street Claypan TEC