

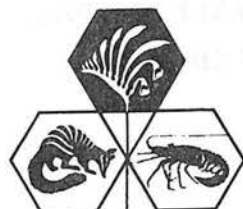
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# PROTECTING OUR FLORA

**INCLUDING:** Brief Outline of Act, and,  
Licenses Required.



PROTECTING OUR FLORA

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LICENSES REQUIRED.

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# PROTECTING OUR FLORA

## AMENDMENTS TO THE WILDLIFE CONSERVATION ACT

### BACKGROUND

It has been almost three hundred years since William Dampier first collected plant specimens in Western Australia, but even today there is still a considerable amount to be discovered about our plants. For instance, it has been estimated that between one and three thousand species of flowering plants in Western Australia remain undescribed.

Australia has an extremely rich flora. There are around 20 000 species of plants in all, and of these, more than 80 per cent are only found in the Australian continent. Many Australian plants are primitive and this has led some scientists to suggest that this country could have been the centre of the origin of the flowering plants.

Changes in land use are threatening our plants. Their distribution is being modified and species which were once abundant in a certain area can no longer be found there. The numbers of our native plants are also being greatly reduced. Many species are in grave danger of becoming extinct.

### THE NUMBER OF PLANTS AT RISK IN EACH STATE

	families	genera	species
W.A.	62	233	936
N.T.	45	85	108
S.A.	52	119	249
Qld.	68	187	311
N.S.W.	64	160	305
Vic.	39	83	136
Tas.	45	83	139
	<hr/> 141	<hr/> 596	<hr/> 2 053

In all of Australia, the greatest number of plants at risk occur in the south-west corner of Western Australia (about 820 species). This large number of plants at risk highlights the fact that this area is very rich in species many of which can only be found in the south-west corner of this State.

Looking at the conservation status of Australia's native plants as a whole, nine species are believed to be extinct and about 220 species are regarded as endangered, and of these, one third occur in Western Australia. Many more plants are considered vulnerable.

Quite a few species are subject to heavy commercial exploitation

in the wild state. Banksias, kangaroo paws, boronias and ferns are some of the plants which are especially attractive to florists, seed collectors and nurserymen. Many banksias are used as centre pieces for flower arrangements and command high prices. They are often air freighted overseas. Other native flowers are valued for dried arrangements.

Of the 1100 commercially exploited Western Australian species, 200 are regarded as being rare, geographically restricted or few have been collected, and some of these are endangered. All the endangered ones are from the south-west of the State.

The creation of National Parks and Nature Reserves is of tremendous value in protecting our endangered plants. However, some existing reserves are just too small to allow a plant community to be self perpetuating. Others contain inadequate buffer zones and are just 'islands' of the original landscape surrounded by urban, rural or forestry development. These plant populations are unable to expand. Many of the Nature Reserves may be invaded by 'weeds', this is especially so if they are subjected to frequent fires. Frequent fires can also kill plant species or prevent them from reproducing. Water-table changes resulting from irrigation or draining can also have far-reaching effects on small Nature Reserves.

Many of Western Australia's most spectacular flowers occur on poor, nutrient-deficient soils. The plants have adapted to these meagre soils. Therefore, fertilizer rich dust from adjacent farmland and debris from road making and agricultural activity can harm these communities. Even fruit peelings, cigarette butts, and papers dropped along tracks and roadsides can inadvertently contribute to an excess of nutrients.

In general, few plant communities are really adequately conserved just within the Nature Reserve and National Parks network. More than one reserve may be essential to cover the genetic and structural diversity contained in a wide ranging species such as the York Gum (*Eucalyptus loxophleba*). The most obvious gaps in the Nature Reserve network are, not suprisingly, in the areas subject to the greatest demands for other uses, such as grazing land and forestry. In Western Australia the south-west corner has the highest rainfall in the State and is therefore of great value for both forestry and farmland.

*Most of the information included in the above section comes from the work of Mr. W. Hartley and Dr. J. Leigh, published in the booklet 'Plants at Risk in Australia', by the Australian National Parks and Wildlife Service; and an article published in 'Ecos' by Andrew Bell entitled 'Plants at Risk'.*

Against this background whereby many of our unique plants are being threatened with extinction the Wildlife Conservation Act has been amended to conserve threatened plant species outside the existing Nature Reserve system as well as within it.

The following is a brief outline of the amendments to the Wildlife Conservation Act and the licenses which have to be

obtained before protected flora can be taken.

## AMENDMENTS TO THE WILDLIFE CONSERVATION ACT

### Section 6

The Minister may -

- (a) by notice published in the *Government Gazette* declare any class or description of flora to be protected flora for the purposes of this Act, either throughout the whole of the State or in such part or parts of the State as are specified in the notice;
- (b) by notice so published, declare -
  - (i) all flora; or
  - (ii) all flora other than such classes or descriptions of flora as are specified in the notice,in such part or parts of the State as is or are specified in the notice to be protected flora for the purposes of this Act;

"Flora" means any plant (including any wildflower, palm, tree, shrub, fern, creeper or vine) which is -

- (a) native to the State; or
- (b) declared to be flora .....

and includes any part of flora and all seeds and spores thereof;

"to take" in relation to any flora includes to gather, cut, pluck, pull up, destroy, dig up, remove, or injure the flora or to cause or permit the same to be done by any means;

23B (1) A person shall not on Crown land wilfully take any protected flora unless the taking of the protected flora is authorised by, and carried out in accordance with the terms and conditions of, a license issued to him under section twenty-three C of this Act.

23C. (1) Any person may, in the prescribed form containing or accompanied by the prescribed particulars and on payment of the prescribed fee, apply to the Minister for the issue to him of a license to take protected flora on Crown land -

- (a) for commercial purposes; or
- (b) for scientific purposes or any prescribed purpose,

and the Minister may issue or refuse to issue such a license.

23D. (1) A person shall not take any protected flora on private land unless -

- (a) he is the owner or occupier of the private land; or
- (b) he is authorised so to do by the owner or occupier of the private land.

(2) A person shall not sell any protected flora taken by him on private land unless-

- (a) he is the holder of a commercial producer's license or a nurseryman's license issued under this section;
- (b) the flora-
  - (i) if taken by a person who is the holder of a commercial producer's license - is of a class or description specified in his license and is taken from the private land specified in the license; and
  - (ii) if taken by a person who is the holder of a nurseryman's license - is of a class or description specified in his license and has been grown and cultivated by him on the private land specified in the license; and
- (c) the flora is marked, tagged or otherwise identified in accordance with the terms and conditions of his license.

(3) Any owner or occupier of private land may on payment of the prescribed fee apply to the Minister for the issue to him of a commercial producer's license or a nurseryman's license.

23E (1) A person shall not sell any protected flora unless -

- (a) the sale is lawful by virtue of the provisions of section twenty-three C or twenty-three D of this Act; or
- (b) he purchased the flora from another person lawfully entitled to sell the flora to him and forthwith after the purchase he made or obtained a legible record of -
  - (i) the quantity and class or description of flora so purchased;
  - (ii) the date of the purchase; and
  - (iii) the name and address of the person from whom he purchased the flora.

(2) A person who makes or obtains a record pursuant to paragraph (b) of subsection (1) of this section shall retain the record for not less than twelve months and produce it on demand to a wildlife officer.

23F. (1) In this section "rare flora" means flora for the time being declared to be rare flora for the purposes of this section.

(2) Where the Minister is of the opinion that any class or description of protected flora is likely to become extinct or is rare or is otherwise in need of special protection, he may, by notice published in the *Government Gazette* declare that class or description of flora to be rare flora for the purposes of this section throughout the State.

(3) The Minister may vary or revoke a notice published under subsection (2) of this section by subsequent notice or notices published in the *Government Gazette*.

(4) A person shall not, whether or not he is -

- (a) the holder of a license issued under this Act to take protected flora;
- (b) the owner or occupier of private land on which rare flora exists; or
- (c) authorised by the owner or occupier of land on which rare flora exists,

take any rare flora unless -

- (d) where he is not the holder of a license issued under this Act, he first obtains the consent thereto in writing of the Minister;
- (e) where he is the holder of a license issued under this Act, he first obtains the further consent thereto in writing of the Minister.

(7) Where an owner or occupier of private land who has been refused consent to take rare flora on that land satisfies the Minister that he will suffer loss of use or enjoyment of the land by reason of that refusal, the Minister shall inform the Treasurer in writing accordingly and the owner or occupier shall be paid compensation for that loss at such rate or rates per annum as -

- (a) is agreed between the owner or occupier and the Treasurer; or
  - (b) in default of agreement, is determined by a valuer appointed by agreement between the Treasurer and the owner or occupier, or in default of agreement on such an appointment, by a valuer appointed by the Minister,
- for such period, not exceeding five years, as the loss continues.



## LICENSES

### CROWN LAND

All persons picking protected flora on Crown Land must have a license.

Commercial pickers must have a commercial purposes license and submit monthly returns of all flora picked by them, on Crown land.

The holder of a license for scientific purposes or prescribed purposes may take flora in sufficient quantities for scientific or hobby purposes only - no flora shall be sold. A return of flora taken may be required.

### PRIVATE LAND

It is an offence to pick protected flora on private land unless the person is the owner or occupier or has the owner or occupier's permission.

The owners, occupants or persons authorised by them are permitted to take flora from their land, but shall not sell it, unless they hold a commercial producer's or nurseryman's license.

A commercial producer is a person who sells flora picked by him or his employee from private land.

A nurseryman is a person who sells flora grown or cultivated by him on private land. It is not intended to license those who grow or cultivate plants in pots initially. This may eventuate if control proves necessary.

The following outlines the licenses that will be required to meet varying situations on private land.

- (a) A person who sells protected flora taken by him or his employees on private land will require a commercial producer's license and will have to produce a return of flora sold.
- (b) A company which sells protected flora taken by their employees on private land will require a commercial producer's license and have to submit a return of the flora sold.
- (c) Contractors or sub-contractors who take flora on private land and sell the flora to the company to which they are contracted will require a commercial producer's license and have to submit individual returns of flora sold.

### COMBINATION OF CROWN AND PRIVATE LAND

The following outlines the licenses that will be required

where protected flora is taken on both Crown land and private land.

- (a) Where a person who is selling protected flora taken by him or his employees on private land is also taking protected flora on Crown land (both himself or his employees) each person taking protected flora will require a commercial purposes license in addition to the commercial producer's license held by the employer, and have to submit a separate return for each license unless a special arrangement is made whereby the employer submits a return for the total operation separating the flora taken on Crown land from that taken on private land.
- (b) An employee who picks on Crown land and also on private land must have a commercial purposes license and his employer must have a commercial producer's license. An arrangement can probably be made whereby the employer would submit the return for protected flora taken by all his employees showing that which was taken on Crown land and that which was taken on private land.
- (c) A contract or sub-contractor picker who takes protected flora on Crown land and also on private land must have both a commercial purposes license and a commercial producer's license. A separate return will be required for each license.

Further information on the regulations concerning the taking of native flora can be obtained from the Department of Fisheries and Wildlife on request.