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Environmental Protection Act 1986

Environmental Protection (Environmentally Sensitive Areas) Notice 2005

Made by the Minister for the Environment under section 51B of the Act.

1. Citation

This notice is the *Environmental Protection (Environmentally Sensitive Areas) Notice 2005*.

2. Commencement

This notice comes into operation on the day on which it is published in the *Gazette*.

3. Terms used in this notice

In this notice —

“**defined wetland**” means —

- (a) a wetland included in the List of Wetlands of International Importance kept under the Ramsar Convention;
- (b) a nationally important wetland as defined in “A Directory of Important Wetlands in Australia” (2001), 3rd edition, published by the Commonwealth Department of the Environment and Heritage, Canberra;
- (c) a wetland designated as a conservation category wetland in the geomorphic wetland maps held by, and available from, the Department;

- (d) a wetland mapped in Pen, L. “A Systematic Overview of Environmental Values of the Wetlands, Rivers and Estuaries of the Busselton-Walpole Region” (1997), published by the Water and Rivers Commission, Perth; and
- (e) a wetland mapped in V & C Semeniuk Research Group “Mapping and Classification of Wetlands from Augusta to Walpole in the South West of Western Australia” (1997), published by the Water and Rivers Commission, Perth;

“**ecological community**” means a naturally occurring biological assemblage that occurs in a particular type of habitat;

“**maintenance area**”, of a stretch of road or railway, means any area in the reserve for that stretch of road or railway that is lawfully cleared;

“**Ramsar Convention**” means the Convention on Wetlands of International Importance especially as Waterfowl Habitat done at Ramsar, Iran, on 2 February 1971, as in force for Australia in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, and set out in Australian Treaty Series 1975 No. 48;

“**rare flora**” means flora that is declared to be rare flora under section 23F of the *Wildlife Conservation Act 1950*;

“**threatened ecological community**” means an ecological community that —

- (a) has been determined by the Minister to be a threatened ecological community; and
- (b) is referred to in the list of threatened ecological communities maintained by the chief executive officer of the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*.

4. **Declaration of environmentally sensitive areas**

- (1) Subject to this clause, the following areas are declared to be environmentally sensitive areas for the purposes of Part V Division 2 of the Act —
 - (a) a declared World Heritage property as defined in section 13 of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;
 - (b) an area that is included on the Register of the National Estate, because of its natural heritage value, under the *Australian Heritage Council Act 2003* of the Commonwealth;

- (c) a defined wetland and the area within 50 m of the wetland;
 - (d) the area covered by vegetation within 50 m of rare flora, to the extent to which the vegetation is continuous with the vegetation in which the rare flora is located;
 - (e) the area covered by a threatened ecological community;
 - (f) a Bush Forever site listed in “Bush Forever” Volumes 1 and 2 (2000), published by the Western Australia Planning Commission, except to the extent to which the site is approved to be developed by the Western Australia Planning Commission, as described in subclause (3);
 - (g) the areas covered by the following policies —
 - (i) the *Environmental Protection (Gnangara Mound Crown Land) Policy 1992*;
 - (ii) the *Environmental Protection (Western Swamp Tortoise) Policy 2002*;
 - (h) the areas covered by the lakes to which the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992* applies;
 - (i) protected wetlands as defined in the *Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998*;
 - (j) areas of fringing native vegetation in the policy area as defined in the *Environmental Protection (Swan and Canning Rivers) Policy 1998*.
- (2) For the purposes of subclause (1)(d), an area of vegetation is continuous with another area of vegetation if any separation between the areas is less than 5 m at one or more points.
- (3) For the purposes of subclause (1)(f), an area of a Bush Forever site is approved to be developed by the Western Australia Planning Commission if —
- (a) the Commission has made a decision with respect to the area that, if implemented, would have the effect that development or other works can take place in the area;
 - (b) that decision is not under assessment under Part IV of the *Environmental Protection Act 1986*; and
 - (c) where an assessment under Part IV of the *Environmental Protection Act 1986* has been made — the decision may be implemented.
- (4) An area that would otherwise be an environmentally sensitive area because of this clause is not an environmentally sensitive area to the extent to which the area is within the maintenance area of a stretch of road or railway.

- (5) An area that would otherwise be an environmentally sensitive area because of this clause is not an environmentally sensitive area unless —
- (a) the determination of the flora, ecological community, site or area has been made public; or
 - (b) in the case of an area referred to in subclause (1)(d) or (e) — the owner, occupier or person responsible for the care and maintenance of the land has been notified of the area.
- (6) In this clause, unless the contrary intention appears or the context otherwise requires, a reference to the determination of flora, an ecological community, a site or an area is a reference to the determination of the flora, ecological community, site or area as in force or effect immediately before the day on which this notice comes into operation.
- (7) In subclauses (5) and (6) —
- “determination”**, in relation to flora, an ecological community, a site or an area, means the declaration, determination, designation, registration, listing, mapping or other description of the flora, ecological community, site or area;

Date:

JUDY EDWARDS, Minister for the Environment.



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