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# **Biodiversity Bloopers: gaps in biodiversity law**

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# The Crown is not bound

- › Fauna provisions of the *Wildlife Conservation Act 1950* don't bind the Crown
  - › Government departments and agencies don't have to obtain a licence to disturb fauna
  - › Forest contractors don't have to have licence to carry out harvesting activities
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# Protected species, unprotected biodiversity

- › *Wildlife Conservation Act 1950* protects species diversity
  - › No protection for genetic diversity
  - › No protection for ecosystem diversity
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# No protection for habitat

- › There is no specific protection available for critical habitat
  - › There is no mechanism to control threatening processes
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# Outdated enforcement tools

- › Maximum penalty for taking native flora or fauna is \$4,000 (\$20,000 for corporations)
  - › Maximum penalty for taking rare flora or fauna is \$10,000 (\$50,000 for corporations)
  - › Only CALM can undertake enforcement activities
  - › No ability for Courts to order restoration or conservation
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# Unclear process for listing threatened species

- › There is no statutory process for listing/de-listing of threatened species
  - › There is no public participation in listing/de-listing of threatened species
  - › There is no accountability for listing/de-listing decisions
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# Deficient approvals process

- › No public participation in approvals process
  - › No requirement for any data to be collected before approval decisions are made eg no fauna or flora surveys are required
  - › No requirement for any matters to be considered before approval decisions are made
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# Divided lands

- › Different laws apply depending upon whether:
    - £ Land is public or private
    - £ Land is rural or urban
    - £ Land is reserved for conservation or other
    - £ Land is terrestrial or marine
    - £ Land is subject of an EIA assessment, DEP licence or EPP
    - £ Work is done privately or by government
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# Impact of clearing

- › *Environmental Protection Amendment Bill 2002* will strengthen clearing laws
  - › Still limited opportunities for public involvement
  - › There are many exemptions from proposed clearing laws
  - › Under proposed laws, CEO has to consider town planning considerations as well as clearing principles
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# No road to recovery

- › Object of *Wildlife Conservation Act 1950* is to protect and conserve – but does not include restoration
  - › No mechanism to develop recovery plans
  - › *Wildlife Conservation Act 1950* is stand alone Act – does not interact (and is in fact overridden) by other Acts, and is not part of an overall Biodiversity Strategy
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