



Biodiversity Conservation and Control of Introduced Species in Western Australia

Updated December 2010

An introduction to Biodiversity Conservation and Control of Introduced Species in Western Australia

The rich number of unique species in Western Australia is a result of relative isolation, low fertility soils, geological stability and variation in climatic conditions. Many of these species are naturally restricted to small geographic areas or are otherwise rare.

This high endemism combined with the impact of introduced species and European land development, has resulted in many native flora and fauna species becoming extinct or critically endangered. Western Australia has developed controls to prevent native species from being taken from the wild and to manage the impact of introduced species.

This Fact Sheet examines Western Australian laws relating to the protection of biodiversity and control of introduced species. For more information on biodiversity, see [Fact Sheet 9: Biodiversity conservation under Commonwealth law](#). For information on development controls, see [Fact Sheet 5: Environmental impact assessment in Western Australia](#). For information on clearing of native vegetation, see [Fact Sheet 7: Clearing of Native Vegetation](#).

This fact sheet is intended for information purposes only. If you require advice about a specific issue, please contact the EDO. This fact sheet is current as at March 2011. It is possible that changes to the law have been made since that time.

What is “biodiversity”?

Biodiversity (or “biological diversity”) is defined in the Convention on Biological Diversity as the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

There are three levels of Biodiversity:

- Genetic diversity – the variety of genetic information contained in individual plants, animals and micro-organisms.
- Species diversity – the variety of species.
- Ecosystem diversity – the variety of habitats, ecological communities and ecological processes.

Biodiversity can therefore be described as the diversity of plants, animals and microorganisms, the genes they contain, and the ecosystems of which they form a part. It is not static, but constantly changing; it

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is increased by genetic change and evolutionary processes, and reduced by processes such as habitat degradation, population decline and extinction.

Protecting Biodiversity

There is no specific legislative scheme dedicated to protecting biodiversity in Western Australia, as applies in the Commonwealth jurisdiction. However, there are a number of statutes that directly or indirectly protect some aspects of biodiversity in Western Australia.

The most important of these is the *Wildlife Conservation Act 1950* (WA) ("the WC Act"). It makes it an offence to take certain protected native species of plants and animals in Western Australia.

Aquatic species may also be protected under the *Fish Resources Management Act 1994* (see [Fact Sheet 19a: Fishing- recreational](#) and [Fact Sheet 19b: Fishing - commercial](#)).

Groups of species, (often referred to as "ecological communities") and the habitats of threatened species are not directly protected under Western Australian law. For more information, see [Fact Sheet 9: Biodiversity conservation under Commonwealth law](#).

Other laws relevant to biodiversity protection are those protecting particular areas (for example, national parks and other conservation areas) and those controlling activities that may impact on biodiversity (for example, planning laws, EP Act Conditions, laws controlling land clearing or introduced species).

What is "flora"?

Flora under the WCA means any plant or part of a plant that is native to Western Australia or that is not native, but which has been declared to be flora by the Minister for Environment. For the purposes of the WCA, flora does not include flora that has been declared under the *Agriculture and Related Resources Protection Act 1976* (WA) as a pest species that requires control.

The Minister for Environment can also declare certain flora or classes of flora to be "protected" flora under the WCA. Currently, all flora native to the State is declared to be protected. This includes marine plants such as seaweeds and seagrasses.

The Minister for Environment may also declare any species of flora as "rare" where that species is likely to become extinct or is otherwise in need of special protection. A link to the gazetted list of species currently declared "rare" can be found on the Department of Environment and Conservation ("DEC") website.

Controls on the "taking" of flora

It is an offence to "take" protected flora on Crown land (that is, any land other than private freehold land) without a licence from DEC, and on private land without the consent of the owner or occupier of the land. Taking of flora on private land for the purpose of sale also requires a licence.

To "take" flora includes to gather, pluck, cut, pull up, destroy, dig up, remove or injure the flora, or to cause or permit this to occur.

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The flora provisions of the Act are binding on the Crown. This means government departments and authorities must also obtain a licence before taking flora.

However, the taking of protected flora without a licence is not an offence if the taking occurred as an unavoidable incident or consequence in the performance of any right, power or authority conferred upon the person under another Act. Aboriginal people may take flora for food from Crown land without a licence, however this excludes taking declared rare flora, or flora on a nature reserve.

It is an offence for a person to take declared rare flora without the written approval of the Minister for the Environment. This applies irrespective of whether the rare flora is on private land or Crown land, and whether or not the person has authority from the owner of the land or a licence under the WCA. Compensation may be payable in some cases where a private landowner is denied permission to take flora on his or her own land.

For access to the latest list of declared rare flora, visit the DEC website.

What is “fauna”?

“Fauna” means any animal that is native to Australia or its waters, or which is a periodic migrant to Australia. It includes any part of an animal or its eggs, larvae or semen. Like flora, fauna can be declared “protected” or “rare”.

All fauna that is native to Australia or periodically migrates to Australia is “protected” unless it is declared to be unprotected by the Minister for Environment.

The Minister may declare as “rare” a species of fauna that is likely to become extinct, is rare, or otherwise in need of special protection.

Controls on the “taking” of fauna

It is an offence to take protected or threatened fauna unless:

- the person has a licence from DEC to take or deal with protected fauna;
- the taking was authorised under an open season declared by the Minister for that species; or
- the taking was by an Aboriginal person for food and the fauna was not taken in a nature reserve or wildlife sanctuary, and the species is not restricted from Aboriginal usage.

To “take” includes to kill, capture, disturb, molest or hunt any fauna, and also includes attempts to take fauna and assisting another person to take fauna.

A higher penalty exists for the taking of declared rare fauna.

Note that the Crown is not bound by the fauna protection provisions of the WC Act, and is therefore exempt from the requirement to obtain a licence to take fauna.

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The following activities involving fauna also require approval from DEC:

- Farming native fauna.
- Importing native fauna or other animals (excluding farm animals and domesticated pets) into the State.
- Exporting native fauna.
- Selling native fauna (unless that action is authorised under another Act).
- Processing fauna for the purposes of sale (excluding fish processed under a licence issued under the *Fish Resources Management Act 1994*).
- Releasing any animal not ordinarily found at liberty or keeping any such animal in confinement for the purpose of releasing it.

Additional controls also apply to the manner in which fauna is kept, fed and transported.

There is no third party right of appeal against a decision to issue a licence to take flora or fauna under the WC Act. Nor is there a register of licences available to the public. However any person taking fauna must present a licence if requested by a member of the public.

Listing process for declared rare species

Whilst it is not a legal requirement, the Minister for the Environment seeks the advice of the Threatened Species Scientific Committee before publishing lists of rare flora and fauna. The Committee meets annually before making a recommendation to the Minister. Members of the public can submit nominations to the Committee for the listing or de-listing of species of flora and fauna. Guidelines for listing and de-listing and nomination forms are available from DEC.

Aquatic animals

Aquatic species of animal, such as fish, molluscs and crustaceans are subject to specific protection under the Fish Resources Management Act. Under this Act, the taking of species which are threatened by over exploitation can be subject to restrictions or prohibitions. For further information on fishing see [Fact Sheet 19a: Fishing – recreational](#) and [Fact Sheet 19b: Fishing – commercial](#) and for marine protection, [Fact Sheet 17: Marine reserves](#).

What are introduced and invasive plants and animals?

Introduced (exotic) plants and animals are species which exist in Western Australia, but are not native to Western Australia. Of particular concern to the biodiversity of Western Australia are “invasive” or “weed” plant species and “invasive” or “pest” animal species.

Invasive plant species or weeds are species that have certain characteristics that give them the potential to rapidly establish in Western Australia and become threatening to biodiversity. Examples of weeds are *Watsonia* and bridal creeper.

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Pest animal species or invasive animals are species of animals that have an adverse effect on another organism or the environment in the area. Examples of pest animals that are of particular concern for the environment of Western Australia include red foxes, cane toads, feral cats and rabbits.

The management of invasive species in Western Australia relies both on controls on the importation of introduced species into the State, and on eradication, containment and management of the species that now exist in the wild in Western Australia and are damaging biodiversity.

Importing plants and animals from overseas

The first line of prevention of the introduction of introduced species from overseas into Western Australia is the *Quarantine Act 1908* (Cth). The object of this Act is to prevent or control the introduction, establishment or spread of pests that could cause significant damage to human beings, animals, plants, or other aspects of the environment or economy.

The *Quarantine Act 1908* (Cth) provides that a Director of Quarantine must request advice from the Commonwealth Environment Minister on any decision which is likely to result in a significant risk of harm to the environment.

Other Commonwealth import controls also apply to trading in threatened species (see [Fact Sheet 9: Biodiversity conservation under Commonwealth law](#)).

Importing plants and animals from other States or Territories

There are a number of controls on bringing animals and plants into Western Australia. Quarantine WA, which is a part of the Department of Agriculture and Food ("DAF"), is responsible for ensuring that pest animals, diseases and weeds found elsewhere in Australia do not enter Western Australia. They have the power to conduct quarantine inspections for any organism at entry points into Western Australia under the new *Biosecurity and Agriculture Management Act 2007* (WA).

Licences are also required under the *WCA* and *Wildlife Conservation Regulations 1970* (WA) to import animals that are exotic to Western Australia, including Australian fauna native only to other States. The Minister for Environment cannot grant a licence to import live exotic birds or animals unless satisfied that they are to remain in captivity and that the bird or animal is unlikely to become acclimatized if released into the wild.

How is the control of invasive species regulated in Western Australia?

The control of pests animals and invasive plants in Western Australia is mainly managed by DEC and DAF. DEC has management responsibility on DEC land (e.g. nature reserves and national parks) and on unallocated crown land, while DAF regulates private land owners controlling pests on their own land. Ultimately, both departments have responsibilities for the management of invasive species, and their roles overlap in many areas.

The requirement for pest animals and invasive plants to be controlled in Western Australia is given in the *Agriculture and Related Resources Protection Act 1976* (WA) ("the ARRPA Act"). The ARRPA Act provides that

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a Government Department shall control declared (pest) plants and animals on and in relation to public land under its control.

DEC also has a responsibility under the *Conservation and Land Management Act 1984* (WA) to control pest animals and invasive plants in order to meet its requirement to “conserve and protect flora and fauna throughout the State”.

It is important to be aware that the ARRPP Act will soon be superseded by the *Biosecurity and Agriculture Management Act 2007* (WA). Although this new act is already in force, at the time of writing this fact sheet, its regulations have not yet been enacted and many sections of the Act are still not in operation. DAF is therefore still currently operating under the ARRPP Act. This fact sheet will therefore generally follow the ARRPP Act, however, as the law will soon be changing, please check with DAF, DEC and in the legislation for the current status of the law in this area.

Declared species

Under the ARRPP Act, the Minister for Agriculture may “declare” classes of plants and animals as species that need to be controlled in Western Australia, and may also assign these species to categories, depending on the level of control they require. Government Departments and landowners then have a responsibility to control these “declared” plants and animals on the land under their management.

Native species of plant and animal may also be declared under the ARRPP Act. If a native plant is declared, then the controls that would otherwise apply to that species under the WCA do not apply.

Lists of declared animals and plants and their categories are extensive and are downloadable from the DAF website.

Categories of declared species

DAF gives the following summary of the categories of declared pest animals and invasive plant species:

Category of Animal	Explanation
A1	Entry prohibited
A2	Subject to eradication in the wild
A3	Keeping prohibited
A4	Entry subject to permits and/or conditions
A5	Numbers to be reduced/ controlled
A6	Keeping subject to permits and/ or conditions
A7	A management programme for each species outlines the area and conditions under which controls may be applied

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Category of Plant	Explanation
P1	Introduction of the plant into, or movement of the plant within, an area is prohibited
P2	Plant to be eradicated in the area
P3	Plant to be controlled by reduction in number or distribution of the plant or both
P4	Spread of plant beyond where it currently occurs to be prevented
P5	Particular action to be taken on public land or land under the control of a local government

Landholder's duty to control declared species

Occupiers of private land are required under the ARRPP Act to control declared plants and animals on their own property. DAF may also serve on the occupier and owner of land a notice in writing directing that specified declared plants or animals must be controlled on the property in a certain manner. If the owner or occupier does not commence compliance with the direction before the commencement date specified, or fail to comply fully before the specified completion date, they may be liable to a substantial fine.

Controls on keeping and releasing certain declared animals

In order to prevent the introduction of further invasive species into the wild, controls apply under the ARRPP Act to prevent people from keeping and releasing certain categories of declared animals.

A person must not keep a declared animal of category A3. A permit to keep an animal in category A3 will only be issued where the animal is to be kept for scientific or educational purposes. Animals declared under the category A6 may only be kept in accordance with certain conditions and restrictions.

It is an offence to release or abandon declared animals (with the exception of category A7) in any part of the State where the animal is declared.

It is also illegal under the WCA to release any animal into the wild where it is not normally found at liberty. A person commits an offence if they release any fish prescribed to be noxious under the *Fish Resources Management Act 1994* (WA) into any water in the State.

DEC Management of Invasive Species

DEC, in accordance with its management responsibilities under the ARRPP Act and *Conservation and Land Management Act 1984* (WA), conduct certain management programs to eradicate, monitor and manage invasive species, some of which may also involve opportunities for public involvement. A few of these programs are explained below in this fact sheet.

Western Shield

Western Australia has no natural large predators. The introduction of species such as the fox and the cat has therefore had a particularly devastating effect on native marsupials in the critical adult body weight range of between 35g and 5500g.

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In 1996, DEC launched the Western Shield Fauna Recovery Program, which chiefly consists of the aerial baiting of foxes with dried meat baits injected with 1080 poison, followed by the re-introduction or natural recovery of native species numbers after the fox numbers have been reduced. The reduction of cat numbers is also an aim of the program, but bait that is attractive to cats has been harder to develop.

The program has been credited with removing the tammar wallaby and the quenda from the endangered list. It has also given the State the opportunity to create virtually predator free islands on the mainland, such as on the Peron Peninsula where 105 000 hectares has been fenced from the rest of the mainland. Species that were locally extinct or endangered have reappeared or been reintroduced, such as the Shark Bay mouse, the rufous hare-wallaby, and the red-tailed phascogale, amongst others, and have been able to recover in an environment that is virtually free of introduced predators and herbivores.

The 1080 (sodium fluoroacetate) poison that the program uses is a synthetic form of the toxin found in the poison pea (gastrolobium) plants that occur naturally in south-western Australia. Animals that are native to Western Australia have developed a very high natural resistance to the poison that the plants contain, but it is lethal for introduced animals, such as foxes and cats.

As this poison will also kill domestic pets, and is dangerous for humans, its use is regulated in Western Australia. The use of the poison is administered by the Department of Health under the *Poisons Act 1964* (WA), and conditions are placed on its use by *Poisons (Section 24) (Registered Pesticide 1080) Notice 2000*. Conditions include that a person who proposes to use 1080 on any land must give notice in writing to the occupiers of adjacent land stating the place and period in which 1080 will be used. The Department of Health, DAF and DEC have also developed a Code of Practice to guide the use of 1080, particularly in respect of the use of 1080 in poison baits. For more information about the use of 1080 in Western Australia, contact the Department of Health, DAF or DEC.

Cane Toads

Despite every effort to prevent the entry of cane toads into Western Australia, cane toads first officially crossed the Western Australian border from the Northern Territory in February 2009. They are of major concern for native species, humans and pets, as not only do they poison animals that ingest them, but they are also predators and create competition for habitat and food for native animals. Their advancing front moves extremely quickly, advancing approximately 55 kilometers a year.

A Cane Toad Strategy for Western Australia: 2009-2019 was released in mid 2009 by the State Government to coordinate and implement action to control the pests, in addition to the current work that community groups and DEC have been conducting to prevent and control the cane toads.

Weeds

Australia has a National Weeds Strategy, and has also identified twenty Weeds of National Significance, fourteen of which have been found in Western Australia. Each of these weeds has its own management coordinator and management taskforce. Western Australia also has a State Weed Plan and Environmental Weed Strategy.

For information on the use of chemicals to control weeds, see [Fact Sheet 28: Pesticides and other agricultural chemicals](#).

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Opportunities for public involvement

If you are concerned about the management or conservation of flora and fauna or introduced species, or would like to become involved in the fight against introduced species, there are a number of things you can do:

- For information on licences to take flora or fauna, or to import flora or fauna, contact DEC.
- For more information on what types of plants and animals can enter Western Australia, contact DAF or Australian Quarantine and Inspection Service.
- If you think that someone has imported, is keeping or has released a declared animal illegally, you should contact DAF.
- To find out about ways that you can control invasive species on your land, contact DAF for advice.
- Report the illegal transport of pigs on the back of vehicles to DAF, in order to prevent the further spread of feral pigs in the wild.
- If you would like to become involved with the fight against cane toads, contact DEC or a local community action group such as Kimberly Toad Busters.
- To report a cane toad sighting call the cane toad hotline (see number below).
- If you think you have been poisoned by a cane toad, call the poisons information centre immediately.

Contacts and further information

Australian Quarantine and Inspection Service, Tel: 1800 020 504 <http://www.daff.gov.au/aqis>

Department of Agriculture and Food, Tel: (08) 9368 3333, <http://www.agric.wa.gov.au/>

Department of Environment and Conservation, Tel: (08) 6467 5000, www.dec.wa.gov.au

Cane Toad Hotline, Tel: 1800 084 881

Kimberly Toad Busters: Tel: (08) 9168 2576, or email Kimberleytoadbusters@canetoads.com.au

Poisons Information Centre, Tel: 13 11 26

Department of Health, Tel: (08) 9222 4222, www.health.wa.gov.au

For copies of legislation, contact the State Law Publisher (Western Australian legislation),

Tel: (08) 9426 0000, www.slp.wa.gov.au or Comlaw (Commonwealth legislation), www.comlaw.gov.au

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The Environmental Defender's Office WA (Inc)

The Environmental Defender's Office WA (EDO) is a community legal centre specialising in public interest environmental law.

The objects of the EDO include:

- to provide community groups and individuals with legal advice and representation to help protect the environment;
- to promote law reform that improves environmental protection; and
- to provide community education about environmental law.

The EDO is a non-profit, non-government organisation. The EDO receives its principal funding from the Federal and State Attorney-General's Departments.

However, these funds are limited and donations from the public provide a vital source of funds for many of our activities. Donations over \$2 are fully tax deductible. The EDO also welcomes people with a commitment to the environment to join as members.

If you require legal advice on an environmental issue or wish to find out more about the EDO, please contact us at the following address:

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