

# REGULATORY IMPACT ASSESSMENT

## *Revised Draft Swan Coastal Plain Wetlands Environmental Protection Policy (2004)*



Report to the Minister for the Environment prepared by the Regulatory Impact  
Assessment Panel for the Swan Coastal Plain Wetlands EPP

June 2005

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## 1.0 Executive Summary and Recommendations

The Regulatory Impact Assessment Panel was appointed by the Minister for the Environment to undertake a Regulatory Impact Assessment of *the Revised Draft Swan Coastal Plain Wetlands Environmental Protection Policy 2004*.

The Panel has developed its findings and recommendations as a result of approximately 4 months of investigations and discussions with land owners, stakeholders, the Chairman of the EPA, and staff of the Department of the Environment.

The Panel has made 15 recommendations which, it believes, will significantly increase the likelihood that the desired outcome of wetland protection is achieved, while at the same time minimising the social and economic impacts on land owners.

After careful consideration, the Panel has come to the conclusion that to achieve wetland protection, an EPP is a necessary component of a broader package including incentives, land purchase, and education/information. However, the EPP should only be gazetted subject to significant changes, and as one component of the broader required wetland protection package. In this respect, the Panel would be concerned if only some of the following recommendations were to be adopted, as this will not achieve an equitable or satisfactory outcome for wetland protection, the community, and affected landowners.

The Panel understands that the recommendations will have significant implications for resourcing of wetland protection for the Department of Environment. However, given the high environmental values of wetland systems, and the potentially significant social and economic impacts of protection, adequate resourcing directed to both improved management and purchase of land is required.

Without adoption of all the recommendations, the draft Policy will not achieve its intended purpose and therefore the panel would recommend that it should not proceed.

The Panel has made the following recommendations:

**Recommendation 1: That, subject to amendments as recommended elsewhere in this report, the Draft Wetland EPP and associated Regulations be retained.**

**Recommendation 2: That the activities listed in Clause 7 of the Regulations, which prescribe environmental harm to wetlands, be amended to remove those already controlled under other legislation, and those where the risk to the wetland is low.**

**Recommendation 3: That the EPP provide greater clarity and certainty about ongoing permitted land uses through the use of appropriate exemptions in the Policy.**

**Recommendation 4: That the Geomorphic Data Set be the peak custodial data set to identify CCWs, and that the Wetland Register be a subset of this data set so that consistency is retained.**

**Recommendation 5: That the methodology and criteria for evaluating CCWs be reviewed and agreed across Government as soon as possible, and that these agreed criteria apply within the EPP. This process should be guided by the Wetland Coordinating Committee in the context of the evaluation framework which is currently being developed.**

**Recommendation 6: That the criteria for classifying damplands are further developed and specified to give greater scientific clarity to identifying damplands, and that this information is properly communicated to the broader community.**

**Recommendation 7:** That the Policy incorporate provisions for a provisional listing on the Register and a permanent listing on the Register, where wetlands would be automatically listed as provisional on the Register, followed by scientific (field) verification prior to permanent listing.

**Recommendation 8:** That all Crown land CCWs, and those private land CCWs that are undisputed, be automatically placed permanently on the Register. All other CCWs would be placed on the Register on a provisional basis.

**Recommendation 9:** That an accreditation process for environmental consultants to evaluate wetlands be established, to enable reliable field evaluation commissioned by the EPA or landholders without the need for verification by the Department of Environment.

**Recommendation 10:** That an independent appeals process be incorporated into the EPP for appeals against permanent listing in the Register, and decisions not to list permanently in the Register. Such appeals would be open to both land holders and third parties.

**Recommendation 11:** That the requirement for a Registered wetland to be recorded as a Notice on Title be removed from the EPP, but that alternative mechanisms are put in place to ensure that the Register is promoted, and easily and fully accessible to the public.

**Recommendation 12:** That appropriate planning instruments be put in place to ensure that Registered wetlands are incorporated into Planning Strategies, and Region and Local Town Planning Schemes.

**Recommendation 13:** That a wetlands financial support package, similar to the Bush Forever financial support package, is established. An indicative sum of \$20 m over a five year period is proposed.

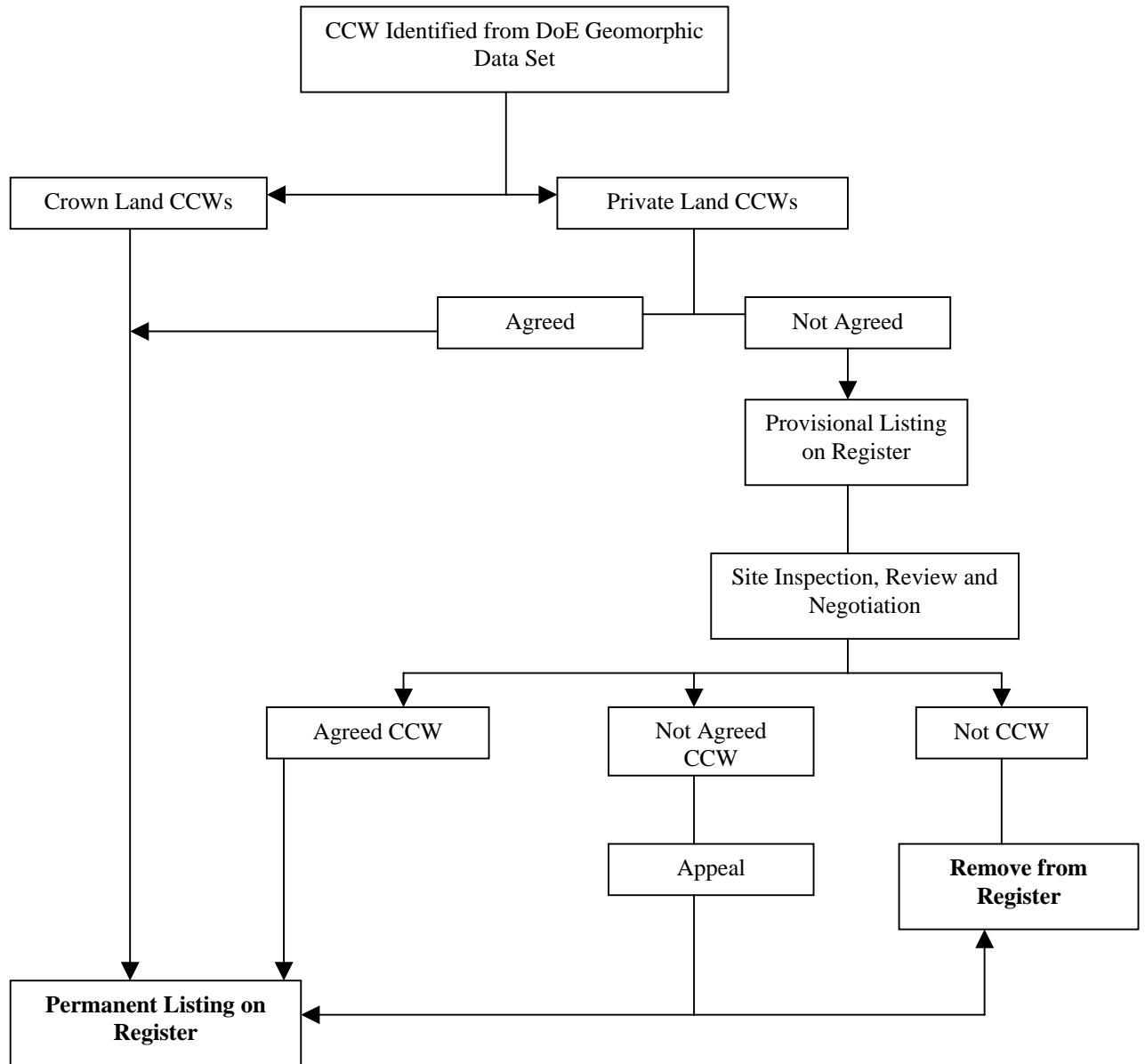
**Recommendation 14:** That officers of the Department of Environment negotiate to ensure that incentives for wetland protection are incorporated into regional strategies and regional investment plans, and into projects for funding under the 20% strategic reserves for the National Action Plan.

**Recommendation 15:** That the Department of Environment establishes a wetland education and awareness program to complement the EPP, working in close liaison with Regional NRM Groups and appropriate non-government organisations.

The Panel's preferred approach to protecting wetlands under a re-drafted EPP is shown in Figure 1. This decision-making framework provides an idealised process for identifying and protecting wetlands under an EPP, within a framework that provides for negotiated outcomes and incentives.

**Figure 1**

**Decision Tree for Wetland Protection**



## 2.0 Establishment and Terms of Reference of the Independent Review Panel

On 12 January 2005, the Minister for the Environment, Hon Dr Judy Edwards MLA, announced an independent assessment of the *Draft Environmental Protection (Swan Coastal Plain Wetlands) Policy and Regulations 2004*. In her announcement, the Minister stated that the Policy needed to be considered in light of the broader social and economic issues that had been raised. The Minister also stated that the assessment would allow a thorough investigation of the various concerns about perceived unintended impacts on property owners.

The Minister appointed an independent three-member panel with expertise in wetlands, planning, and the property industry to undertake a Regulatory Impact Assessment of the Policy and Regulations. The Regulatory Impact Assessment was to determine the social and economic cost of introduction of the Policy and Regulations. The Panel comprised:

Mr Simon Holthouse, Chairman - farmer and former Chairman of the WA Planning Commission  
Ms Anne Arnold – Chief Executive Officer of the Real Estate Institute of WA  
Associate Professor Jenny Davis – School of Environmental Science, Murdoch University

The Minister for the Environment required that the Panel report to her by 31 May 2004, with the following Terms of Reference:

- **The extent to which the Purposes of the Policy are likely to be achieved and any unintended impacts;**
- **The social, economic and environmental benefits and costs of the Policy having particular regard to perceived impacts on property rights and values;**
- **Whether the community has had adequate input into the Policy;**
- **How the effectiveness of the Policy should be measured; and**
- **Other relevant matters determined by the Panel.**

The Minister also agreed to the Panel's recommendation to include the following additional terms of reference, as "Other relevant matters determined by the Panel".

- **The practicality of the Policy including clarity, enforceability, process for registering wetlands, and other matters; and**
- **Whether the Policy is the most appropriate instrument to achieve the objectives sought, and the use of other appropriate mechanisms, including incentives.**

The revised date for completion of the Report, 30 June, 2005, was agreed by the Minister on request from the Panel. This was due to the State Election being announced immediately following the appointment of the review Panel.

### 3.0 Background to the Draft EPP

Statutory protection of wetlands of the Swan Coastal Plain through the use of Environmental Protection Policies had its genesis in the development and proclamation of the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992* (referred to as Lakes EPP in the remainder of this report. In this policy, permanent wetlands were identified and protected through the definition of “prohibited activities” in the Policy.

Under the requirements of the Environmental Protection Act 1986, that Policy required review within a 7 year period of its gazettal, and in 1999 the EPA commenced a statutory review of the 1992 Policy. Formal public consultation on the review was followed by transmission to the Minister for the Environment of the EPA report, along with a *Draft Environmental Protection (Swan Coastal Plain Wetlands) Policy* (from now on referred to as the Wetlands EPP).

This was the first draft of the Wetlands EPP, and formed the basis for the current version of the Policy and Regulations which are before the Independent Review Panel for consideration.

A chronology of events leading to the current review is shown in Table 1.

Table 1 – Chronology of development of the EPP

November 1999	Statutory review of the <i>Environmental Protection (Swan Coastal Plain Lakes) Policy 1992</i> and <i>Draft Environmental Protection (Swan Coastal Plain Wetlands) Policy 1999</i> released for public consultation.
December 1999	EPA report, including revised draft Policy, transmitted to the Minister for the Environment.
22 October 2003	Minister remitted the 1999 revised draft Policy to the EPA for further consideration.
19 July 2004	<i>Draft Environmental Protection (Swan Coastal Plain Wetlands) Policy and Regulations 2004</i> , together with an explanatory document and draft Wetlands Register, released by the EPA for public consultation.
24 September 2004	Public comment period extended by 3 weeks.
15 October 2004	Close of EPA submission period.
8 November 2004	EPA report and revised draft Policy transmitted to the Minister for the Environment.
11 November 2004	Minister resolved to consult with all persons that provided a submission to the EPA on the draft Policy.
26 November 2004	Close of submission period for Ministerial consultation. A further week extension given to a number of submitters.
3 December 2004	Final submissions received.
12 January 2005	Minister announced Regulatory Impact Assessment to be undertaken on the revised draft Policy.

A considerable number of submissions were made both to the EPA (664) and Minister for the Environment (88), and both sets of submissions were provided to the Panel for its consideration.

## 4.0 Independent Review Panel Process and Work Program

The Panel had a significant task to complete and encountered a delayed start to its work program due to the election process and the convention of caretaker mode in Government. The Panel initially convened on 4 March 2004, and met a total of 7 times during the course of its deliberations, with a further field trip and a number of meetings with stakeholders. Coordination and executive support for the Panel was provided by Naomi Arrowsmith, South Coast Regional Manager, Department of Environment.

The Panel recognised that there was considerable input to the Policy both through submissions made to the EPA and the Minister for the Environment. In reviewing these submissions, the Panel noted significant support for the need to protect wetlands, but also widespread concern about the impacts of the Policy on individual landholders. Soon after its appointment, the Panel received a number of contacts from organisations and individuals seeking an opportunity to meet the Panel and present their views. The Panel considered these requests in some detail, and decided it did not have the capacity to meet individually with a large number of people. However, it resolved to write to all those who had made previous submissions, and those that had expressed an interest since, to invite any further written comments. It also resolved to meet with a small number of key stakeholder groups. In developing this approach to public consultation, the Panel considered the following issues:

- That the large number and comprehensive nature of the submission made to the EPA and Minister for the Environment gave it a very good understanding of the issues of concern;
- That given the delayed start to its work program and the limited time available, it did not have the capacity to meet with many individuals;
- That in providing an opportunity for some to meet with the Panel, there may be strong demand from others and un-met expectations, and that this could undermine confidence in the Panel's process.

The Panel wrote to all former submitters and other interested people on 31 March 2005, outlining its understanding of the issues and inviting any further written comments to be submitted by 20 April 2005. The letter also provided telephone contact details for the Executive Officer.

As a result, a total of 78 additional written submissions were received, as well as approximately 25 phone calls seeking clarification or providing comment.

Meetings were also held with key stakeholder groups identified by the Panel.

Table 2 illustrates the work program for the Panel, its meeting dates, and the stakeholder meetings that were held.

The Panel also identified that a field visit would be beneficial to its understanding of the issues associated with evaluation of wetlands to determine their management category. The Panel visited a number of wetlands sites on 8 June 2005, especially focussing on sumplands and damplands, and viewing both those for which there was an agreed conservation category wetland, and those where the classification was in dispute.

Table 2 – Independent Review Panel meetings and work program

Date	Topics and Issues Discussed	Individuals and Organisation providing input.
4 March 2005	First meeting, revised terms of reference, initial identification of issues from public submissions. Discussion on general work program and meeting arrangements.	
23 March 2005	Overview of process and issues from EPA officers. Discussion on community consultation process and finalisation of draft letter.	EPA Service Unit officers – Ray Wallis, Rob Sippe
31 March 2005	Letter to previous submitters and other interested stakeholders, inviting further submissions to the Panel.	
8 April 2005	Briefing on Bushplan including incentives package Briefing on process for identification of wetlands for inclusion in the register. Finalised stakeholder list for consultation program.	Briefing from officers of DPI, briefing from GIS officer of EPA support unit.
20 April 2005	Closing date for written submissions to the Panel	
27 April 2005	Meetings with Minister for the Environment, and Chairman of the EPA on policy objectives and other issues.	Dr Wally Cox, Chairman, EPA Hon Dr Judy Edwards MLA, Minister for the Environment.
11 May 2005	Briefing on wetland classification and evaluation	Briefing from officers of DEP Wetland Unit.
18 May 2005	Meeting with peak stakeholder groups.	PGA, WAFF, Gingin Property Owners groups (x2), Kemerton Silica Sands
20 May 2005	Meeting with peak stakeholder groups.	Environmental Consultants Association, WALGA, Wetlands Conservation Society, Conservation Council and Waterbirds Conservation Group
25 May 2005	Meeting with peak stakeholder groups.	UDIA, World Wide Fund for Nature, Australian Property Institute.
2 June 2005	Meeting to formulate recommendations and final report.	
8 June 2005	Site visits and meeting with Campbell Estate land owners.	Dampland and sumpland sites in Canning Vale and Banjup (Campbell Estate, Acourt Road bushland, and Harrisdale Swamp).
15 June 2005	Meeting with Minister for the Environment	
22 June 2005	Meeting to finalise report to the Minister for the Environment.	

## 5.0 Findings on the Terms of Reference

### 5.1 The extent to which the Purposes of the Policy are likely to be achieved and any unintended impacts

Clause 2 of the Environmental Protection (Swan Coastal Plain Wetlands) Policy 2004 states the purposes of the policy:

#### 2. Purposes of policy

- (1) *This policy establishes the basis on which –*
  - (a) *the environmental values of certain wetlands of the Swan coastal plain are to be protected as an intrinsic part of the natural hydrology and the surface and groundwater system of the Swan coastal plain; and*
  - (b) *pollution of, and environmental harm to, those wetlands are to be prevented or controlled.*
- (2) *The environment quality objectives of the policy are –*
  - (a) *the protection of the ecosystem health conditions of wetlands in the Swan coastal plain that meet the environmental quality criteria and of certain other wetlands, including the protection of the ecological structure, ecological function and ecological processes of those wetlands; and*
  - (b) *the protection of the beneficial uses of those wetlands, including the use of the wetlands for study, education, recreation, aesthetic enjoyment and the benefit of the public generally.*
- (3) *the policy, in conjunction with the regulations, establishes a programme for achieving the environmental quality objectives by –*
  - (a) *setting out criteria for measuring the environmental quality of the wetlands of the Swan coastal plain;*
  - (b) *providing for the identification and registration of wetlands that meet the environmental quality criteria and for the registration of certain other wetlands;*
  - (c) *providing for identifying and recording, for each registered wetland, the particular environmental values of the wetland that are to be protected; and*
  - (d) *providing a basis for the regulations to identify activities that cause, or have the potential to cause, material environmental harm or serious environmental harm to a registered wetland.*

During meetings with the Panel, the Chairman and policy officers of the EPA paraphrased the environmental objectives as stated in Clause 2 (2) as “protecting the crown jewel wetlands”, that is, those wetlands which are classified as having high conservation value.

Through its consultation and considerations, the Panel met with broad general agreement about the need to protect “crown jewel” wetlands. A consistent view was presented that wetlands of the Swan Coast Plain have high environmental, social, and in some cases, economic values; that they are being progressively degraded or lost; and that mechanisms are needed for their protection. However, there were many differing views on the approach used, and the extent to which the Policy is likely to achieve the stated purpose and outcome of wetland protection.

**The view of the Panel is that the Policy, as a result of both the process of its development and its content, will not best achieve the stated and intended purpose of protecting crown jewel wetlands.**

**However, the Panel does believe that a clear and enforceable Policy is required to achieve wetland protection, providing that it is part of a broader package of complementary measures including incentives, land purchase, and education.**

While the remainder of this report provides specific information and details on relevant issues, the general views of the Panel in coming to this conclusion are that:

- Although the initial review of the Lakes EPP commenced in 1999, the preparation of the final draft was undertaken within a short time frame which did not provide for broad stakeholder involvement in its development. The process for development of the EPP is not considered to be best practice, and does not conform with the Western Australian Government's own Consulting Citizens guide.
- The Policy adds to a number of other regulatory instruments which prevent degradation of wetlands, including the Part IV and V of the Environmental Protection Act, and regulations on the clearing of native vegetation under the Environmental Protection Act. There is some duplication in the material and some confusion in the community about the need for the EPP given the other statutes that apply.
- There are elements of the Policy and supporting material that are inconsistent and confusing. A specific example is the lack of clarity related to permitted ongoing uses of wetlands, particularly for stock grazing.
- The Policy has not been accompanied by a specific or dedicated education or incentives packages. The Panel considers an integrated package, which includes regulation, education and incentives mechanisms (including funding for purchase where landholders are significantly adversely affected), is essential to achieve wetland protection.
- The criteria for evaluating wetlands are not clear, nor is the basis on which wetlands have been added to the register. There is also a lack of awareness about what constitutes a wetland (especially damplands), and the criteria for determining conservation category wetlands (CCWs).
- There have been examples of "incorrect" registrations, leading to a widespread (but probably incorrect) perception that many of the wetlands registered are not CCWs. A consistent example put forward in submissions was that of the registration of "flooded paddocks". While the Panel acknowledges that it is difficult to have complete accuracy, the outcome has been a mistrust of the process for identifying and registering the "crown jewel" wetlands.

The collective and unintended outcome of these matters is that there is an atmosphere of some mistrust of the EPA held by many landholders, and a policy that is unclear and confusing. The process for development of the policy and the current approach may have acted to detract from wetland protection through undermining the goodwill of many landholders.

## 5.2 The social, economic and environmental benefits and costs of the Policy having particular regard to perceived impacts on property rights and values

This term of reference provided the greatest challenge to the Panel, especially in trying to quantify potential economic and social impacts of the Policy. The Panel sought a briefing from members of the Australian Property Institute to assist in this matter, but apart from examining case examples, it is very difficult to be definitive on these matters.

**The general conclusion made by the Panel is that there is likely to be some economic impact on land values as a result of placing notices on titles about the presence of EPP wetlands, particularly for rural land. The Panel also believes that the process of developing the Policy, lack of supporting information, and lack of clarity about permitted land uses, has likely resulted in social impacts related to stress and uncertainty for many land holders.**

### Economic benefits and costs

The property valuers who provided advice to the panel suggested that they were aware of some cases of rural land for which sales had fallen through or for which the offered price had fallen as a result of uncertainty about the impact of the Policy on continuing land uses, especially grazing.

For peri-urban land, the Panel's interpretation of the view of the valuers is that in the current housing market, large or experienced development companies are already aware that the economic value of wetland areas is significantly less than upland ground, and this is taken into account in negotiations to purchase land for urban development. These developers are experienced in the planning and land use development controls that are likely to apply, and have greater economic flexibility to deal with areas which can not be developed. Rising land values, and a growing shortage of suitable land, particularly in inner metropolitan areas, has also placed a pressure on land that might otherwise be regarded as too difficult to develop. The Urban Development Institute of Australia (UDIA) suggested that there needs to be a more generous system of public open space credits for wetlands that cannot be developed.

However, for owners of small peri-urban lots seeking to realise the value of their land for "superannuation purposes", there is a strong perception that the Policy has affected property prices. This may be a case of perceptions rather than reality, as many land holders may not understand the lower economic value that applies to wetland areas. Historically, wetter areas did not command the same prices as uplands, but the increasing pressure of land for urban development has raised expectations. The Policy has served to heighten awareness of this matter. Prices of peri-urban land have increased significantly in recent years, and although the value of wetland areas has also increased, the relative increase is not commensurate with that for uplands.

As a principle, the development industry welcomes certainty to lower risk, and the Panel's understanding of the view of the property valuers and UDIA was that certainty on permitted future land uses was an important characteristic sought through registration of wetlands.

#### Social benefits and costs

With regard to social impact, the Panel met with a number of people who expressed levels of anxiety and stress about the Policy and its impacts on their livelihood or development expectations. This was also very clear in many of the written submissions received by the Panel, and phone calls to the Panel's executive officer. In some cases, individuals have been affected by a series of new statutory instruments, including Bush Forever, amendments to the MRS, clearing controls and the wetlands EPP, and have expressed a feeling of victimisation. Much of the anxiety and stress appear to be a result of the collective impact of these instruments and a lack of understanding about Government policy and processes, rather than pertaining just to the EPP.

While to some extent it is unavoidable that new statutory instruments will affect individuals in this way, the Panel is of the view that these matters can be much better managed when such instruments are accompanied by clear incentives mechanisms and/or educational material.

#### Environmental benefits and costs

With regard to environmental benefits, the Panel recognises the continuing loss of wetlands on the Swan Coastal Plain and supports the need for a clear wetland policy position. However, as discussed elsewhere, for the Policy to be acceptable this must be accompanied by: incentives (to help landowners to manage wetlands appropriately); the ability to acquire land (where this is necessary); and educational material (to inform and encourage landowners).

In considering this issue, the Panel has distinguished between peri-urban areas, where wetlands are likely to be subject to the impacts of significant land use change for urban development, and rural land, where ongoing agricultural land uses are likely.

For peri-urban wetlands, a Policy position linked strongly to statutory land-use planning and development controls is essential. In this respect, the EPP would have far greater environmental benefits if it was supported by a Statement of Planning Policy (SPP), and incorporated in Town Planning Scheme amendments and land planning strategies.

For agricultural wetlands, the issue is not development but ongoing management, and the Panel considers it would be far more effective to achieve improved wetland management in the context of the current natural resource management approach through regional strategies and investment plans. The EPA and Department should work proactively with the Regional NRM groups and the Department of Agriculture to develop approaches, information and support for improved wetland management.

### 5.3 Whether the community has had adequate input into the Policy

The Panel received strongly divergent views on this matter, with the conservation movement of the view that there had been very adequate community consultation, but other stakeholders strongly disagreeing. The Panel's interpretation of the view expressed by the Conservation Council and its affiliates, and the World Wide Fund for Nature, was that organisationally they had ample opportunity to input to the Policy, and that there was also ample opportunity provided to private land holders including through public meetings. However, the Panel found that other peak stakeholder groups, including the Environmental Consultants' Association, UDIA, and peak farmer groups, believed that the consultation process had not been adequate and that a more participatory approach to policy development and community consultation should have been used.

This Policy seeks to extend wetland protection from a small group of permanent lakes to a much larger number of wetlands, including many areas the community does not necessarily recognise as wetlands (eg damplands). In comparison to the Lakes EPP, it seeks to introduce new and stronger measures to control activities in wetlands, and also the concept of a notice on title.

Given the large potential impact, it would be expected that a very comprehensive community consultation approach would be used, including stakeholder input to the development of the Policy. However, it is the understanding of the Panel that apart from the formal consultation process required for EPPs under the Environment Protection Act, the consultation process was largely reactive and confined to occasions of invitation rather than proactive approaches. Officers of the EPA have themselves expressed the view that the process for development of the Policy was not best practice, and the Panel considers that it fell far short of the approach promoted by Government through its consulting citizens guides.

**The Panel is of the view that the formal public consultation processes that apply under the Act for EPPs should be the culmination of considerable other consultative and participatory mechanisms for policy development, and that in the case of the Wetlands EPP, the community consultation did not reflect the significant change in policy direction from the Lakes EPP.**

Officers of the EPA made considerable efforts to contact all potentially affected land holders by way of a direct mail out and advertisements in newspapers. It was clearly the intention that all owners of wetlands to be included in the register should be directly advised of this intention. The EPA sought mailing details from DOLA, attempted to seek correct mailing addresses for returned mail, and asked for local government ratepayer mailing lists (only some local governments agreed to release these details). However despite this effort and the best intentions of EPA staff, it is likely that there are still some land holders who have not been formally advised.

This points to a strong need for a central data set held within Government containing correct mailing addresses for property owners.

### 5.4 How the effectiveness of the Policy should be measured

To measure the effectiveness of the Policy, ideally there would be data available on the rate of wetland degradation and loss on the Swan Coastal Plain prior to the introduction of the Policy, which would provide a baseline from which the effectiveness of the Policy could be measured.

The Panel understands that there was a former Wetland Loss Working Group of the Wetland Coordinating Committee, and that this group was considering how to measure wetland loss including consideration of issues such as quality versus quantity and the appropriate technologies to be used.

**At present, the Panel understands that there is no agreed approach to measuring wetlands loss or degradation, and that this should be developed as a matter of priority to ensure the effectiveness of the Policy and complementary mechanisms can be measured.**

The Panel recommends that the Wetland Loss Working Group be convened and develop a suitable approach to measuring wetland loss, ideally based on air photos or remote sensing techniques, and applies this historically to provide an estimate of wetland loss over suitable periods for the last 20 years. This process can then continue to be applied at appropriate intervals after introduction of the policy, to gauge any reduction in the rate of wetland degradation or loss.

The Panel also understands that the DoE maintains an incident and complaints management system which records incidents of breaches reported to the Department. This system should be used to maintain an accurate record of reported or observed breaches of the Policy.

## 5.5 The practicality of the Policy including clarity, enforceability, process for registering wetlands, and other matters

The Panel has identified a number of practical issues which may impede successful implementation and enforcement of the Policy. Some of these issues are dealt with in detail elsewhere in this report. The issues include:

- The policy and regulations are difficult to read and comprehend. The language is confusing, and there is a lack of clarity about some of the provisions (eg what ongoing activities are permitted for wetlands, what constitutes “substantial alteration” of a wetland).
- Enforcing the provisions of the Policy will require the use of the environmental harm provisions of the Environmental Protection Act. The Panel understands that as yet, these provisions have not been tested, and the Department has no internal policy or guidance on how they should be applied. Therefore there is no clear process for dealing with enforcement, and this would make immediate enforcement of the Policy difficult.
- The criteria for identifying wetlands for inclusion or removal of wetlands from the register is unclear, and not consistent with the criteria for evaluation of CCWs used by the DoE. The practice of citing other “lists” in the Policy is confusing (eg. a wetland is on the register if it is in one of the documents listed in the Policy). Further discussion and recommendations on this matter follow.

**The Panel believes that a framework for enforcement of the EPP needs to be developed to coincide with gazettal of the EPP. Clearly the purpose of the EPP cannot be achieved without such a framework in place.**

## 5.6 Whether the Policy is the most appropriate instrument to achieve the objectives sought, and the use of other appropriate mechanisms, including incentives

At present, the Policy seeks to protect wetlands by achieving two primary outcomes: to identify and list wetlands considered to be of significant conservation value; and to prohibit certain activities from occurring in those wetlands.

**The Panel considers that the EPP is an appropriate mechanism for identifying and formally registering wetlands of significance, subject to amendments to the Policy as discussed in this report.**

**However, achieving successful protection of those wetlands through prohibition of activities and improved management requires a suite of complementary tools and mechanisms. It cannot be expected that the EPP will achieve these outcomes without such a package.**

The Panel would envisage such a package could include but not be limited to:

- A community education program, focussed on raising awareness on issues such as wetland values, what constitutes a wetland, the criteria for determining CCWs, best management practices for wetlands etc.
- A comprehensive range of incentives for proactive wetland management and stewardship, delivered in a partnership approach with the regional NRM groups.
- A financial assistance package for those who are highly adversely affected by the provision of the Policy. Such a package could be similar to the Bush Forever approach which seeks to achieve negotiated outcomes with financial assistance where appropriate.
- Support for non-government organisations to undertake proactive wetland protection, such as the World Wide Fund for Nature Wetland Watch Program, now being delivered to two local government areas on the Swan Coastal Plain.
- Provision for planning offsets to enable negotiated planning solutions to protect wetlands, such as those applying in the Shire of Busselton.
- A technical support program for wetlands, similar to the State's Rivercare Program, with technical support material and advice.

## 6.0 Identification of Key Issues and Discussion

This section summarises the key issues identified by the Panel during its deliberations and a discussion of the Panel's views on these issues. These issues were identified from the submissions made to the Minister for the Environment and the summary of submissions to the EPA, and through submission directly to the Panel and its meetings with stakeholders.

### 6.1 Retention of the Draft EPP

The Panel deliberated in depth on the need for and benefit of retaining the EPP. On balance, the Panel is of the view that the draft EPP should be retained, but subject to considerable modification as discussed elsewhere in this report.

Information from EPA officers, conveying advice from the Crown Solicitors Office, is that an EPP is a regulatory tool and should only be used where a regulatory outcome is sought. Therefore, as a tool to identify and register high conservation values wetlands, and to specify prohibited activities, an Environmental Protection Policy is appropriate.

In particular, the Policy - *Environmental Protection (Swan Coastal Plain Wetlands) Policy Order 2004* – provides the environmental criteria for determining important wetlands, and mechanism for registration and notification on land titles. The accompanying Regulations – *Environmental Protection (Swan Coastal Plain Wetlands) Regulations 2004* – specify in detail the natural attributes and environmental values of wetlands, and identify the types of activities that are prescribed as environmental harm.

The Panel investigated a number of other alternatives to an EPP and associated Regulations, including the use of an SPP only to guide future land use planning, and the use of a non-statutory State Environmental Policy. However, to retain the concept of a statutory register, the Panel understands that an EPP is required.

With regards to specifying prohibited land uses, the EPP Regulations effectively further specify (and in some parts duplicate) the environmental harm provisions of the *Environmental Protection Act*, and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (clearing control regulations). The Department of Environment is currently working on developing a Policy position with respect to environmental harm including identifying those aspects of the environment to which it should be applied that are not protected under other legislation. This may or may not lead to specific regulations on environmental harm.

In the absence of a current policy position and any environmental harm regulations, it is difficult to determine if this would be an appropriate mechanism to replace the nomination of specific activities which constitute environmental harm for high conservation value wetlands under the EPP Regulations. On the one hand, the current approach to the EPP does provide greater clarity for some activities. On the other hand it confuses the position with respect to clearing of native vegetation, duplicating the existing clearing regulations but using different terminology and providing a different level of control. Having specificity in the Regulations also removes the opportunity for negotiated outcomes and for case by case consideration of proposals based on environmental and economic outcomes.

In summary, the Panel therefore considers that the Policy and Regulations are important, but has concerns about some of the specific provisions of the EPP, and these matters are discussed under other issues below.

**Recommendation 1: That, subject to amendments as recommended elsewhere in this report, the Draft Wetland EPP and associated Regulations be retained.**

## 6.2 Prohibited Activities and Exemption of Current Land Uses

In considering the issue of what activities should be permitted or prohibited in wetlands, the Panel adopted the guiding principle that there should be no loss of high value wetlands. Clearly there are activities that are of high risk to a wetland, such as mining, filling and draining. For other activities the risk is much lower, and in some cases, the activity may be of benefit to a wetland. One example is grazing, where cessation may allow rapid growth of existing weeds, to the detriment of native plants.

The draft EPP defines the activities that are to be prescribed as constituting environmental harm to a wetland, for the purposes of applying the environmental harm provisions of the Environmental Protection Act. Therefore, it defines what is considered to be environmental harm, but then relies on the powers of the Act to enforce this.

Environmental harm under the EPP is any substantial alteration of a registered wetland by a number of activities including: filling; dumping of soil or waste; mining; drainage into or from the wetland; groundwater abstraction; removing, killing or burning vegetation; disposal of industrial waste; using a powered motor vehicle or boat; removing flora or fauna; and introducing flora. This list contains both high and low risk activities, and is far more comprehensive than that included in the Lakes EPP – filling, mining, discharge of effluent, and drainage in or out of the lakes.

The Panel considers that it may be counterproductive to have such a comprehensive list in the Regulations. For example, the risk associated with using a power motor vehicle or boat is very low, and inclusion of this in the list of activities leads to derision from some landholders. The Panel's preference is to have a more limited list of the high risk activities only in the Regulations, the same as or similar to those that apply in the current Lakes EPP. Removal of flora and fauna, and removing, killing and burning vegetation are covered under other existing laws (*Wildlife Conservation Act*, and *Environmental Protection (Clearing of Native Vegetation) Regulations*, respectively). Control of the impact of groundwater abstraction on wetlands can also be achieved under the Rights in Water and Irrigation Act. Therefore, it is not necessary to include these activities in the Regulations.

**Recommendation 2: That the activities listed in Clause 7 of the Regulations, which prescribe environmental harm to wetlands, be amended to remove those already controlled under other legislation, and those where the risk to the wetland is low.**

It is clearly essential to apply a “significance test” to any activity which may harm a wetland, and this is what the term “substantial alteration” aims to achieve. However, land holders have raised the issue of how this significance test applies to existing and ongoing uses of a wetland, particularly with respect to stock grazing and groundwater abstraction. The Panel was advised that grazing on low lying land which provides green feed in summer is an important value of many rural properties, and has substantial influence on the value of the land and is essential for ongoing viability of the properties.

The Panel's interpretation of advice received from the Chairman of the Environmental Protection Authority was that if a wetland is being grazed, but the wetland meets the criteria for an EPP wetland, then the grazing is not resulting in substantial alteration and can continue. This advice has also been provided in documentation published by the EPA (Explanatory Notes to the draft EPP, July 2004; and EPA Information sheet, 14 September 2004). However, landholders and prospective purchasers do not consider these assurances to be sufficient, as they rely on the goodwill of the Department and individual officers, and are not imbedded in the Policy.

The Panel is concerned about this approach and can envisage a situation where an ongoing land use is progressively degrading a wetland, and the owner could clearly be in breach of the EPP.

The Panel considers that it is essential to provide greater clarity and certainty on what are permitted ongoing land uses. Options could include either specifically exempting all existing land uses as of the date of gazettal of the EPP, or using a similar approach which apply in the clearing regulations (*Environment Protection (Clearing of Native Vegetation) Regulations 2004*). In these regulations, grazing that had been conducted within 10 years prior to the gazettal of the regulations can continue at its current intensity as a specific exemption. A similar exemption could apply for some of the prescribed activities in the EPP which are essential for ongoing farming activities, particularly drainage from the wetland (eg for stock water supplies).

**Recommendation 3: That the EPP provide greater clarity and certainty about ongoing permitted land uses through the use of appropriate exemptions in the Policy.**

### 6.3 Identification of EPP Wetlands and Relationship to Conservation Category Wetlands

#### Background

Identification and classification of wetlands into particular types (eg Lakes, Sumplands, Damplands), and evaluation to allocate an appropriate management category (Conservation, Resource Enhancement, Multiple Use), is a complex technical process which has had a long history in Western Australia. The primary group with carriage of the classification and evaluation process is the State Wetlands Coordinating Committee, an inter-agency and technical specialist committee established under the State Wetland Conservation Policy, and managed by CALM.

The Department of Environment has custodial responsibility for the wetland classification and evaluation data base, which was established in 1996 to capture information about wetlands on the Swan Coastal Plain. Currently, the “Geomorphic Data Set” as it is known, contains information collected through many studies since the early 1990s, using a range of evaluation methodologies, but primarily based on the methodology specified in Wetlands of the Swan Coastal Plain Volume 2 (North of Mandurah), 1996, which itself was largely based on EPA Bulletin 686 with the addition of those protected at a national and international level or recognised in existing policies.

A different evaluation process was used for wetlands to the South of Mandurah and applied by V & C Semenuik in 1998.

The identification of Conservation Category Wetlands (CCWs) in the Geomorphic Data Set was considered to be reasonably robust and accurate as of 2000. The data set itself, and the process to establish the data set, were endorsed in 2000 by a range of peak organisations including the Wetlands Coordinating Committee, the Water and Rivers Commission Board, the Environmental Protection Authority, the Natural Resources Management Sub-Committee of the WA Planning Commission, and the Conservation Commission.

Since 2000, the DoE have maintained the register by responding to requests for re-evaluation of wetlands into new management categories, with these re-evaluations undertaken by DoE staff. However, it is recognised that as there has been no systematic approach to maintaining the data set since 2000, the condition of some wetlands may have changed as a result of development and other pressures.

#### EPP Criteria

There appears to be general consensus that the current evaluation methodology is lacking a number of key criteria and that a review is required. The State Wetlands Coordinating Committee is currently developing a framework in which this can be undertaken, with the DoE reviewing Bulletin 686.

In developing the Draft Register for the EPP, the EPA used the CCWs in the DoE Geomorphic Data Set and the Lakes EPP as a basis. It then removed rivers, creeks and floodplains so that the data applied only to wetlands (standing waters, not flowing waters), and modified it further to exclude areas of obvious development from those wetlands (such as houses, roads etc). This modified version of the Geomorphic Data Set is what now constitutes the draft Register.

However, the Panel understands that the Draft EPP contains different evaluation criteria, to determine how wetlands are considered for inclusion or removal from the wetland register, to those used by the DoE to re-evaluate wetlands on the Geomorphic Data Set. Therefore, the two data sets are likely to diverge over time.

The Panel believes that this situation is potentially highly confusing to property owners, and may result in different advice being provided by the EPA and DoE. The Panel does not believe it is acceptable to have different contents in the custodial data set held by the DoE and the wetland register held by the EPA, when both purport to represent the ‘crown jewel’ wetlands.

Ideally, identical evaluation criteria should apply to identify CCWs on the Geomorphic Data Set and for EPP wetlands on the Register, and the Register should be a sub-set of the Geomorphic Data Set. Any updates to the EPP Register should be reflected in the Geomorphic Data Set, and vice versa.

**Recommendation 4: That the Geomorphic Data Set be the peak custodial data set to identify CCWs, and that the Wetland Register be a subset of this data set so that consistency is retained.**

The Panel recognises the need to review the evaluation criteria, and that the EPA has attempted to anticipate such a review in the draft EPP. However, this has not been recognised more broadly across Government, as were the criteria used for the Geomorphic Data Set. It is considered important that the evaluation methodology and criteria are developed and agreed as soon as possible, and form the basis of the EPP. If possible within the constraints of parliamentary drafting, the Panel would prefer that the Policy referred generically to the agreed evaluation criteria, rather than re-list these criteria within the Policy. The evaluation approach could be issued as an EPA Bulletin and updated from time to time.

**Recommendation 5: That the methodology and criteria for evaluating CCWs be reviewed and agreed across Government as soon as possible, and that these revised criteria apply within the EPP. This process should be guided by the Wetland Coordinating Committee in the context of the evaluation framework which is currently being developed.**

#### Transparent Application of the Criteria

The Panel is also concerned about the lack of transparency for landholders in how the criteria are applied to the assessment of wetlands on their land. The Panel understands that there was no specific information provided to landholders on the values of their wetland and why they were identified as CCWs.

The perception from many landholders is that this is a secret process which is not balanced and has a strong environmental bias.

The Panel considers that it is important that the process is seen to be highly objective, and that providing information to landholders will help to achieve this. It is also a reasonable request from landholders, given the constraints which apply to their land, and will assist their understanding to help ensure long term management. It will also help overcome the concerns about the listing of “flooded paddocks” and other areas which may appear to be degraded.

Recommendations elsewhere in this report will help to ensure that landholders are more fully informed about the values of the wetlands on their land.

## 6.4 The Identification of Wetlands, Particularly Damplands

During its deliberations, the Panel identified many issues associated with classification of wetlands at the driest end of the spectrum, that is, damplands. These wetlands are defined as “seasonally waterlogged” and therefore do not have apparent surface water. With varying rainfall, and seasonally fluctuating groundwater levels, these systems can vary enormously, from appearing “damp”, with water near the surface, or appearing “dry” with groundwater 1 or 2 metres below the surface at the end of the summer. The longer period of lower than average rainfall in the Perth region has further confused this situation.

The Panel understands that in general, vegetation is used as the primary guide to determine the presence of damplands, especially in broadscale aerial photography interpretation and in the absence of specific investigations on site.

There is no clear boundary between what constitutes a dampland and what constitutes a dry land community. It is a continuum of progressively changing vegetation and other ecosystem conditions. Therefore it is difficult to be definitive in identifying damplands. Even wetland specialists themselves can disagree on this matter, as is evident in the recent independent assessment of the Campbell Estate wetlands in Canning Vale where considerable areas of previously identified damplands were considered as up-land areas by another wetland specialist.

Given the difficulty in identifying damplands, it is of little surprise that the community has significant questions about these systems and why these areas have been included on the draft register. This is clearly an area where there is a need for greater community education about what constitutes a dampland, how they vary seasonally and over longer time frames, and why they are important. The Panel also believes that, while there will always be an element of subjectivity, there is a need for much greater scientific clarity about how these systems are identified, and the specific criteria that are used to distinguish damplands from dry lands.

**Recommendation 6: That the criteria for classifying damplands are further developed and specified to give greater scientific clarity to identifying damplands, and that this information is properly communicated to the broader community.**

## 6.5 Wetland Register and Independent Appeal against Wetland Registration

The Wetlands EPP establishes a wetland register which is populated immediately the Policy comes into force, based on the Geomorphic Data Set and Lakes EPP dataset, as discussed above. Wetlands can only be removed from the register, or the record amended, by the EPA or as determined by the EPA following a submission from the land holder, and subject to the evaluation criteria as set out in the Policy. There is no provision for third party nominations to the register, and no independent appeals mechanism against listing on the register.

The current Lakes EPP contained no provision for a register, but automatically applied to all wetlands which contained an area of standing water over 1000 square meters in size as of 1 December, 1991. The Agricultural Zone Wetlands EPP has a “voluntary” register, where the owner’s permission is sought prior to registering a wetland. The register contains 2 wetlands, although registration has never been actively promoted or pursued. The Panel also notes that the initial review of the lakes EPP resulting in the 2000 Revised EPP did not have an automatic registration of all wetlands, but proposed commencement with an unpopulated register.

The reasoning presented to the Panel by EPA officers for the automatic registration from day one was that a voluntary registration process would only attract those wetlands whose owners have already largely protected them, and that for the remainder, continued degradation and further loss would result. The representatives of conservation groups endorsed this view, but also sought the ability for third parties to nominate wetlands to the register.

While other peak groups did not strongly oppose the registration from day one, arguments were presented to the Panel about the need for field verification prior to registration so that the register is accurate, that there was no information provided to landholders on the particular values of their wetland, and that the process to remove wetlands from the register was onerous and there was no independent assessment or appeal provision.

The Panel was very attracted to the option of having a mechanism in the EPP to allow for provisional registration of wetlands, prior to permanent registration. The concept would be that a wetland would be initially placed on the register in a provisional capacity, pending studies to confirm the values. This option would allow:

- An opportunity for an on-ground assessment of wetlands to ensure they meet the evaluation criteria prior to final registration;

- An opportunity to liaise with the land holder on the wetland values, to negotiate outcomes for certain areas of land, and to promote incentives options;
- Removal of the need for a special process for removing wetlands from the register, which is perceived as difficult by the land owners.

The Panel's view is that all Crown Land conservation category wetlands, and those where there is a clear and agreed conservation category status, should be immediately listed on the register on a permanent basis. All other CCWs could be placed in the Register on a provisional basis and subject to field or other verification processes and interaction with the land holder prior to permanent registration. Alternatively, other criteria could be applied to determine those which should be placed provisionally on the register, such as:

- The classification of the wetland (eg all Lakes permanently registered, all sumplands and damplands provisionally registered);
- All wetlands on private land which are not identified in BushPlan or System 6 (ie, have some prior identification as significant);
- All wetlands at medium or high risk of not being CCWs as identified in a risk assessment undertaken by Tingays and Associates for the Department of Environment.

The Panel has provided a decision making tree to demonstrate a possible decision-making process (see Figure 1).

Provisional registrations should only be in place for a fixed period of time, say three (3) years, and if no assessment had been completed by this time, the wetland would be removed.

In considering this issue, the Panel was very conscious that the arrangement should not disadvantage those landholders who are not contemplating a change in land use, and also that uncertainty for landholders should not remain for longer than necessary.

Where a landholder is contemplating a change of land use, the landholder would be required to undertake an evaluation of the wetland as part of a decision-making process (such as a Part IV assessment under the Environmental Protection Act). Any decision would then trigger a change of status from provisional registration to either permanent registration or removal.

For other land, the onus would be on Government to adequately resource the evaluation of wetlands to determine whether they should be placed on the permanent list, or removed. The Panel considers a three year time frame to be an appropriate balance between the workloads of government, and the need for certainty by landholders.

**Recommendation 7: That the Policy incorporate provisions for a provisional listing on the Register and a permanent listing on the Register, where wetlands would be automatically listed as provisional on the Register, followed by scientific (field) verification prior to permanent listing.**

**Recommendation 8: That all Crown land CCWs, and those private land CCWs that are undisputed, be automatically placed permanently on the Register. All other CCWs would be placed on the Register on a provisional basis.**

The Panel acknowledges that this potentially creates a very large workload in terms of assessing CCWs for inclusion in the final register. There are 3384 individual wetland polygons currently on the draft Register, covering an area of 41562 hectares. Of these, approximately 50% are on private land, the remainder on Crown land. However, the Panel believes this workload can be managed by establishing an accreditation process for environmental consultants to evaluate wetlands, thereby removing the need for verification by the Department. Both the EPA and property owners could then employ accredited environmental consultants to undertake an appropriate field verification.

**Recommendation 9: That an accreditation process for environmental consultants to evaluate wetlands be established, to enable reliable field evaluation commissioned by the EPA or landholders without the need for verification by the Department of Environment.**

With regard to an independent appeal process against Registration of a wetland, the Panel believes that the process of provisional registration of wetlands should provide for greater consideration of the merits of CCWs prior to permanent registration, and that this would lessen the need for an independent appeal process. However, to ensure procedural fairness and in keeping with similar provisions in other regulations under the Environmental Protection Act, the Panel believes that an independent appeals mechanism should be incorporated into the EPP. This appeal should be open to both land owners and third parties, and would be to the Minister for the Environment as for similar appeal mechanisms under the Environmental Protection Act.

**Recommendation 10: That an independent appeals process be incorporated into the EPP for appeals against permanent listing in the Register, and decisions not to list permanently in the Register. Such appeals would be open to both land holders and third parties.**

## 6.6 Notices on Titles, and using Planning Instruments to Complement the EPP

The concept of a Notice On Title to identify land containing a Registered wetland is highly contentious and was the subject of much comment in submissions and meetings with the Panel. There are strong perceptions held by landholders about the effect of such a notice on land values, and comments were made earlier in this report about the advice received from valuers on these matters. On balance, it seems that a notice on title may result in some reduction in the sale price of land, particularly rural land.

The Panel understands that the 2000 version of the revised EPP did not contain a provision relating to notices on titles, but subsequent versions do. The Panel was advised by EPA officers that the notion of some memorial on title was proposed because it provided certainty for land owners and a “right to know” for purchasers. On seeking advice from the Registrar of Titles, Parliamentary Council advised the EPA that it was appropriate that it be called a Notice on Title, as it pertained to something which affected the use and enjoyment of land, rather than a Memorial which relates to something which charges the land with some financial consideration.

The Panel notes that there is no consistent approach to the use of notices or memorials on titles to advise of matters pertaining to government regulation. For example, the *Aboriginal Heritage Act 1972* requires that a register be kept of Aboriginal heritage places and objects, but there is no requirement for a notice on title. Similarly, there is no requirement for a notice on title to advise of rare flora on a property under the *Wildlife Conservation Act 1950*. In these cases, the onus is on the land owner to be aware of constraints on the use of land and to act within the law. Land purchasers, particularly for larger rural properties, are increasingly undertaking due diligence checks to ensure that they are aware of all matter pertaining to the use and enjoyment of the land.

In contrast, a notice on title is used by some local governments (eg City of Cockburn) as a mechanism to advise of areas adjoining wetlands subject to nuisance midge plagues.

The Panel’s view is that while there is a benefit of a notice on title to a land purchaser, often the title is the last document sighted in any land exchange. For land purchasers intending to develop property, a more visible alternative would be to have EPP wetlands incorporated into Planning Strategies, and Region and Local Town Planning Schemes and as a natural resource overlay in other strategic planning documents.

Given the potential effect on property prices, the trend toward due diligence checks, and the “late” notice provided by a check of the title, the Panel believes that the requirement for a notice on title should be removed from the EPP. However, as an alternative, it is an imperative that the wetland register is easily and fully accessible by the public, and promoted to valuers, real estate agents, and settlement agents. The EPA should also negotiate with the WAPC to ensure that wetlands are recognised and incorporated into Region and Local Town Planning Schemes. This may require a

complementary SPP, or it may be able to be achieved through the draft Water Resources SPP, with suitable accompanying data and endorsement by the WAPC.

**Recommendation 11: That the requirement for a Registered wetland to be recorded as a Notice on Title be removed from the EPP, but that alternative mechanisms are put in place to ensure that the Register is promoted, and easily and fully accessible to the public.**

**Recommendation 12: That appropriate planning instruments be put in place to ensure that Registered wetlands are incorporated into Planning Strategies, and Region and Local Town Planning Schemes.**

## 6.7 Incentives and Other Complementary Measures

As discussed above, the Panel considers that a comprehensive package of incentives and financial assistance, including options for land purchase, is an important element in protecting wetlands, and provides an opportunity for proactive rather than purely regulatory measures.

The Panel is aware of the Biodiversity Incentives document produced by the Western Australian Government, and released in 2004, to provide guidance on a range of existing incentives measures available to land holders. These existing measures include the Biodiversity Adjustment Scheme, managed by the Department of Conservation and Land Management, for purchases of land for addition to the conservation estate, and a range of grant programs and schemes to provide labour such as Green Corp. However, it is the view of the Panel that these schemes do not provide sufficient options or adequate financial support to complement the regulatory measures in the EPP.

Incentives come in many different forms depending on the outcome sought. For improved management practices, such as fencing and revegetation, incentives are generally available through a partnership between the WA Government and regional natural resources management groups.

To achieve longer term and more comprehensive protection, stewardship payments, which offset the financial losses associated with retiring an area under production and provide payment for alternative management, are important. Stewardship payments are highly appropriate for very high value wetlands, which comprise a relatively small proportion of a productive property, and therefore are not appropriate for inclusion in the conservation estate. Revolving funds, where important wetlands are subdivided from the greater property, covenanted to ensure protection for conservation, and on-sold, are also an appropriate mechanism to deal with these wetlands.

There will be some properties where the high value wetlands constitute a large percentage of the property, and the enterprise becomes non viable without access to the wetland. In these cases, purchase is the key option. The Panel had briefings on the Bush Forever approach by officers of the Department of Planning and Infrastructure. Bush Forever was accompanied by funding of \$100m for strategic land purchase of high value bush land. **The Panel believes that protection of high value wetlands warrants a similar approach, and would recommend a specific package in the order of \$20m for wetland support.** However, further work would need to be undertaken to determine an appropriate amount.

While considerable funding has been contributed by the Western Australian Government to match the Australian Government National Action Plan funding for WA, most of this is for delivery via regional natural resource management groups to implement accredited regional strategies. Some funding is also delivered via a retained 20% for strategic and cross-regional initiatives, yet no projects have been identified to provide the incentives support necessary to complement the EPP. The Panel would envisage that such projects should be identified and negotiated by officers of the EPA and Department of Environment.

Complementary education, awareness and training programs focusing on issues such as wetland values, what constitutes a wetland, the importance of damplands, the criteria for determining CCWs, and best management practices for wetlands, are all important. The Panel believes that these programs should be facilitated by the EPA/DoE, but could be delivered in partnership with regional groups, and/or non

government organisations such as Greening Australia (WA), World Wide Fund for Nature, and Green Skills.

**Recommendation 13: That a wetlands financial support package, similar to the Bush Forever financial support package, is established. An indicative sum of \$20 m over a five year period is proposed.**

**Recommendation 14: That officers of the Department of Environment negotiate to ensure that incentives for wetland protection are incorporated into regional strategies and regional investment plans, and into projects for funding under the 20% strategic reserves for the National Action Plan.**

**Recommendation 15: That the Department of Environment establishes a wetland education and awareness program to complement the EPP, working in close liaison with Regional NRM Groups and appropriate non-government organisations.**