

**25 October 2021**

Native Vegetation Strategy  
Department of Water and Environmental Regulation  
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To whom it may concern,

**DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION – CONSULTATION  
DRAFT: NATIVE VEGETATION POLICY FOR WA – NELA(WA) COMMENTS**

Set out below are the comments made on behalf of the West Australian division of the National Environmental Law Association (**NELA(WA)**), and endorsed by the national NELA board, regarding the Department of Water and Environmental Regulation's (**DWER**) draft: *Native Vegetation Policy for Western Australia (Policy)*. The Policy proposes the strategic direction to modernise native vegetation management in Western Australia. The purposes of the Policy is to protect and enhance Western Australia's native vegetation and promote a contemporary, whole-of-government approach to steering the complex system of organisations and individuals involved in native vegetation, policymaking and management.

**ABOUT NELA**

NELA is a peak body for environmental lawyers in Australia. We are Australia's only national, multidisciplinary, member-based association focused on environmental law and sustainability. NELA serves the needs of practitioners in law, planning, natural resources and environmental science and management. NELA obtains and exchanges information on issues relevant to environmental law and policy.

One of NELA's objectives is to provide a forum for and otherwise assist in the discussion, consideration and advancement of environmental law among the legal profession and the wider community.

## EXECUTIVE SUMMARY

NELA(WA) submits that DWER should:

- 1 Improve coverage of several key values in the context statement, especially by emphasising the following contexts:
  - (a) Australia's specifically unique biodiversity values;
  - (b) Indigenous and traditional owners and their connection to country; and
  - (c) the relationship between climate change, land clearing and native vegetation conservation.
- 2 Make provision for the following in DWER's "guiding principles":
  - (a) In section 1, in relation to "values":
    - (i) reinforce that economic opportunities should not overshadow environmental, social and cultural outcomes by specifically mentioning that economic values will be balanced; and
    - (ii) refer specifically to climate change as a matter which the Policy should highlight, specifically, an additional paragraph should be inserted to highlight the potential for WA's native vegetation to slow climate change through carbon sequestration techniques.
  - (b) In section 2, in relation to "practice":
    - (i) include active language to ensure that biological diversity and ecological integrity are fundamental considerations;
    - (ii) specifically refer to forms of regenerative agricultural practices, such as carbon sequestration in vegetation and soils; and
    - (iii) separate paragraph 9 to ensure that both distinct propositions are advanced more clearly.
  - (c) In section 3, in relation to "opportunities and challenges", emphasise more clearly the rapid decline of Western Australia's native vegetation.
- 3 In relation to the goals and approaches set out in the policy:
  - (a) amend the policy to include the following key steps: Strategies - Outcomes - Goals - Actions. This aligns with the WA Climate Policy which has four key steps (being Vision - Themes - Outcomes - Actions);
  - (b) implement the suggested amendments by narrowing the current goals to ensure that outcomes are specific and tangible; and
  - (c) combine the approaches with the roadmap actions, to avoid repetition and overlap between approaches and actions, and confusion in implementation.
- 4 Ensure that the most important roadmap actions are prioritised in implementing the Policy. These actions will prompt proactive management of native vegetation, to protect from further degradation and allow for restoration and conservation of native vegetation.

## BACKGROUND

NELA(WA) has addressed all five consultation questions included in the Consultation Draft:

1. Has the policy's context adequately covered native vegetation values, opportunities and challenges?
2. How suitable are the guiding principles in providing a contemporary foundation for managing native vegetation?
3. How well do you support the strategies and outcomes?
4. How suitable are the goals and approaches in guiding implementation of the policy?
5. Which roadmap actions are most important?

### CONSULTATION Q1 - HAS THE POLICY'S CONTEXT ADEQUATELY COVERED NATIVE VEGETATION VALUES, OPPORTUNITIES AND CHALLENGES?

The Policy contains a context statement that seeks to contextualise native vegetation, opportunities and challenges.

In NELA(WA)'s view:

- (a) the Policy offers adequate coverage of native vegetation values, opportunities and challenges;
- (b) several key values (including Western Australia's unique biodiversity values, and native vegetation's significance to Aboriginal people and traditional owners) are understated and the Policy could improve coverage of these; and
- (c) the context statement could be improved by adding a reference to nature-based solutions to climate change, and better articulating the link between climate change and biodiversity, and nature-based solutions and integrated approach to native vegetation, climate change, and land clearing.

***Paragraph 1 - Western Australia's native vegetation is internationally renowned for its biodiversity and gives character to the state's unique and iconic landscapes. It provides habitat for native animals, supports soil health, cleanses water, prevents erosion, controls salinity, binds carbon, provides oxygen, cools cities and towns, feeds livestock and provides timber and bush products. It is culturally and spiritually significant to Aboriginal people, underpins community wellbeing and supports important sectors of the state's economy.***

In NELA(WA)'s view, the opening paragraph does not adequately cover the unique value of Western Australia's vegetation. While it correctly recognises that it is 'internationally renowned for its biodiversity' and covers both the ecological, social and economic values and its significance to Aboriginal people, including traditional owners, it has several shortcomings.

Firstly, it understates the unique biodiversity values of Western Australia, by failing to contextualise its significance within a national context. The South West Australian Ecoregion (SWAE) is one of Australia's two internationally recognised biodiversity hotspots.<sup>1</sup> This is significant given that there

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<sup>1</sup> <https://www.cepf.net/our-work/biodiversity-hotspots/southwest-australia> <https://theconversation.com/australias-south-west-a-hotspot-for-wildlife-and-plants-that-deserves-world-heritage-status-54885#:~:text=Since%20the%20first%20analysis%20identifying,the%20forests%20of%20east%20Australia>  
[https://www.bibbulmuntrack.org.au/media/files/jewel\\_of\\_the\\_australian\\_continent\\_1.pdf](https://www.bibbulmuntrack.org.au/media/files/jewel_of_the_australian_continent_1.pdf)

are only 36 biodiversity hotspots in the whole world. The Southwest Australia Ecoregion is also a Centre of Plant Diversity, as defined by the World Wildlife Fund (WWF) and the International Union for Conservation and Nature and Natural Resources. It is a large ecoregion, covering 48.9 million hectares, and within the Southwest Botanical Province, 7,380 plant taxa (6,759 species) have been identified, with almost half (3,620 species) endemic to the province.<sup>2</sup>

Secondly, it also fails to adequately acknowledge the traditional owners, only mentioning that it is 'significant to Aboriginal people'. In NELA(WA)'s view, in light of recent developments, including the finalisation of the South West Settlement, this expression could be stronger, to recognise both the strength of connection to country and the recent developments of legal recognition of native title in Western Australia.

NELA(WA) recommends updating his paragraph to strengthen the statement of Western Australia's unique biodiversity status, including reference to the fact that the SWAE is one of only 36 globally recognised biodiversity hotspots, and strengthening the statement regarding the significance to Aboriginal people and traditional owners.

***Paragraph 2 - Activities that sustain people's livelihoods and the economy – like agricultural production and urban development – can compete with the protection and enhancement of native vegetation. Since European settlement, there has been ongoing loss and degradation of Western Australia's native vegetation – resulting in impacts to biodiversity along with costly damage to our landscapes, like salinity of lands and water supplies, erosion and the loss of urban tree canopy. In some areas, what remains is rare, significant and fragmented, and under threat from climate change. This impacts both ecological sustainability and the ability to gain approvals and acceptable offsets for proposed developments.***

Paragraph 2 also fails to adequately contextualise the threats to our native vegetation value. According to the WWF the southwest corner of Western Australia is the most modified and reduced by human interactions, with agriculture modification and urbanisation causing the most significant habitat reduction.<sup>3</sup>

Paragraph 2 also does not mention the impact of habitat fragmentation and the cumulative impacts on threatened species, including Carnaby's cockatoos. For example, clearing of native vegetation has had a severe impact on Carnaby cockatoos, a species that has experienced continued population decline since the 1950s, with loss of feeding habitat considered to be the principal threat to the species, with remaining habitat too far from nesting habitat to allow for successful breeding. Extensive clearing of breeding habitat has had a cumulative impact of leaving the remnant feeding and nesting habitat highly fragmented, which is a key threat to the species which is listed as threatened under the *Wildlife Conservation Act 1950 (WA)* and the *Environmental Protection and Biodiversity Conservation Act 1999 (Cth)*.<sup>4</sup>

NELA(WA) recommends that paragraph 2 be updated to note that:

*'There has been significant ongoing loss and degradation of Western Australia's native vegetation, in particular in the biodiversity hotspot in the southwest corner of Western Australia. Additionally habitat fragmentation caused by ongoing loss and degradation has had a significant impact on the ongoing decline of Western Australia's endemic threatened species, including the Carnaby's cockatoos and is considered a key threat to these species.'*

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<sup>2</sup> [https://www.bibbulmuntrack.org.au/media/files/jewel\\_of\\_the\\_australian\\_continent\\_1.pdf](https://www.bibbulmuntrack.org.au/media/files/jewel_of_the_australian_continent_1.pdf)

<sup>3</sup> <https://www.worldwildlife.org/ecoregions/aa1204>

<sup>4</sup> See Department of Biodiversity Conservation and Attractions, 'Fauna Profile: Carnaby's Cockatoo' [https://www.dpaw.wa.gov.au/images/documents/plants-animals/animals/animal\\_profiles/carnabys\\_cockatoo\\_fauna\\_profile.pdf](https://www.dpaw.wa.gov.au/images/documents/plants-animals/animals/animal_profiles/carnabys_cockatoo_fauna_profile.pdf)

In NELA(WA)'s view, the relationship between climate change and biodiversity could be better articulated in paragraph 2, to reflect that climate change accelerates biodiversity loss (and therefore enhances the impact of clearing native vegetation). In doing so it should also explain that also that undertaking measures that protect biodiversity can help to mitigate the impacts of climate change. Nature-based solutions have recently gained popularity as an integrated approach that could address the twin crises of climate change and biodiversity loss.<sup>5</sup> In NELA(WA)'s view it is a missed opportunity for the Policy to omit to include a stronger reference to the relationship between two of the greatest challenges faced in environmental regulation, how to protect biodiversity and combat climate change. As expressed in our response to consultation question 2, the value of preserving native vegetation in slowing climate change is a matter which the Policy (and the context statement specifically) should highlight. Nature-based solutions focus on addressing climate change and biodiversity loss together in a way that can protect and restore ecosystems, help habitats store more carbon, and make ecosystems more resilient.

These are considerations which should shape the decisions made under this Policy, and Western Australia's approach to clearing native vegetation. To that end, NELA(WA) would suggest that Paragraph 2 is amended to reflect that the relationship between climate change and biodiversity is a two-way street. Paragraph 2 should also be amended to reflect that Western Australia's approach to native vegetation management is important and related to its approach on climate change, and may assist in Western Australia in meeting its commitment to adapting to climate change and achieving net zero greenhouse gas emissions by 2050, as set out in the Western Australia Climate Change Policy.<sup>6</sup>

NELA(WA) recommends amending paragraph 2 to include a statement that:

*'A coordinated approach to managing native vegetation and climate change is required, which focuses on addressing climate change and biodiversity loss, to protect and restore ecosystems, and help make them more resilient, as Western Australia follows its plan to position itself for a prosperous and resilient low-carbon future'.*

***Paragraph 3 - Managing native vegetation is complex. There are many organisations and individuals involved in conserving, restoring, utilising and clearing native vegetation in Western Australia, including various State Government agencies. In line with the many purposes for managing native vegetation, various legislative and other frameworks apply to its management at international, national, state, regional and local levels (Table 1). They balance priorities such as development, community safety and traditional practices with the need for ecological sustainability, and reflect the complexity of the challenge in managing native vegetation.***

In NELA(WA)'s view, paragraph 3 adequately covers the challenges and complexity in managing vegetation and is a pragmatic statement of the conflicting interests of stakeholders, and regulatory overlap, which can make managing native vegetation complex. It also helps to place the Policy in context with the other applicable and legislative and other frameworks,

In saying this, and as commented further below in relation to the Guiding Principles, NELA(WA) supports that, where possible, the Policy should clarify which organisations or individuals are responsible for specific actions to be taken. This is to prevent inaction due to the lack of clarity around responsibility for certain actions.

NELA(WA) also suggests that this could be improved by referencing related policies, such as the Western Australian Climate Policy, which identifies the Native Vegetation Rehabilitation Scheme as

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<sup>5</sup> See Nathalie Seddon et al, 'Getting the message right on nature-based solutions to climate change' 1 February 2021 *Global Change Biodiversity* Vol 27 (8) p 1518-1546  
<https://onlinelibrary.wiley.com/doi/10.1111/gcb.15513>

<sup>6</sup> Western Australian Climate Policy (November 2020)

an action, and includes a commitment to invest in revegetation, habitat restoration and protection of existing vegetation to deliver at-scale environmental outcomes.<sup>7</sup>

***Paragraph 4 - Adding to this complexity, across Western Australia there is a great diversity of vegetation types on various land tenures, which face a number of threats. A regionally tailored approach to planning for and coordinating native vegetation management is needed – to account for this diversity, and to provide the consistency, transparency and clarity that stakeholders are seeking. A coordinated approach to offsets, revegetation, threat management and cumulative impacts would maximise the benefits of investments across sectors. A broad review of offsets and pricing could lead to new policy settings – helping build the restoration economy and providing clarity and solutions for proponents.***

***Paragraph 5 - As the state’s population and economy grows, pressures on Western Australia’s native vegetation resources will continue. A whole-of-government, industry and community approach is needed to achieve positive environmental, social, cultural and economic outcomes from native vegetation management. The policy guides collaboration across State Government portfolios. It will foster protection and enhancement of the state’s native vegetation together with ecologically sustainable development.***

NELA(WA) has no further comments regarding Paragraphs 4 and 5, and considers that they contain adequate contextual information reflecting that:

- (d) a regionally-tailored approach is required due to the diversity of Western Australia’s native vegetation;
- (e) the current offsets approach is overdue for review and should be updated in accordance with best practice; and
- (f) the challenges to native vegetation management will increase as the Western Australia’s population and economy grows and will require a collaborative approach between all stakeholders.

#### **General comments regarding the Policy’s context**

Generally, NELA(WA) considers that the Policy’s context, with proposed amendments, will adequately cover native vegetation values, opportunities, and challenges to be addressed by the Policy. However, NELA(WA) is concerned that the context statement does not refer to the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**), including specifically to the referral and approval process under that Act which applies where the clearing of native vegetation will affect a matter of national environmental significance under the EPBC Act.

In NELA(WA)’s view, the context statement also needs to reflect the fact that clearing of native vegetation does not always occur in a vacuum. It should reflect that there may be a broader need for referral for assessment and approvals under Part IV of the *Environmental Protection Act 1986* (WA) or the EPBC Act if the clearing of native vegetation will impact on a matter of national environmental significance, or is likely to have a significant impact on the environment.

In light of this, NELA(WA) also recommends that the context statement be updated to refer to this broader context and contextualise the clearing of native vegetation within other relevant environmental legal frameworks.

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<sup>7</sup> Western Australian Climate Policy (November 2020) p 21

NELA(WA) also recommends that the list of national obligations on page 7 of the Policy be updated to include the EPBC Act and its matters of national environmental significance (MNES). As alluded to above, proponents in Western Australia are required to refer proposals under the EPBC Act where clearing may significantly impact on a MNES, such as the clearing of vegetation that is an EPBC listed threatened ecological community.

NELA(WA) it considers failing to include this in the national obligations list is an omission in the current context, particularly when Western Australia is aspiring to a bilateral agreement to approve significant impacts to MNES on behalf of the Federal Government.

Furthermore, the list of national obligations on page 7 also fails to mention relevant national policies regarding the translocation of endangered species. NELA(WA) submits the list of national obligations should include references to the following policies relevant to the translocation of threatened plants in Australia:

- Australian Network for Plan Conservation Inc, ‘Guideline for the Translocation of Threatened Plants in Australia, Third Edition, 2018;’<sup>8</sup> and
- Australian Government, Department of Sustainability, Environment, Water, Population and Communities, EPBC Policy Statement, Translocation of Listed threatened Species – Assessment under Chapter 4 of the EPBC Act.<sup>9</sup>

## **CONSULTATION Q2 - HOW SUITABLE ARE THE GUIDING PRINCIPLES IN PROVIDING A CONTEMPORARY FOUNDATION FOR MANAGING NATIVE VEGETATION?**

The Draft Native Vegetation Policy contains 16 Guiding Principles which are broken into three sections (a) values, (b) practice and (c) opportunities and challenges.

### **Section 1 – Values**

Whilst NELA(WA) supports the Guiding Principles on the whole, it is of the view that the following changes should be made to section 1 of the Guiding Principles which relates to ‘values’.

Paragraph 5 refers to the economic value of native vegetation. NELA supports the management of vegetation in ways that delivers economic, social and cultural opportunities for traditional owners, other Aboriginal people and regional Western Australians. In saying this, NELA(WA) is of the strong view that economic opportunities should not overshadow environmental, social and cultural outcomes, and that native vegetation has intrinsic economic value. These matters must all be balanced. Value 5 should be updated as follows:

*Native vegetation is of economic value. It sustains important sectors of the economy and provides valuable ecosystem services that are costly to replace. However economic opportunities will be balanced with environmental, social and cultural values.*

NELA(WA) is also of the view that the ‘values’ section of the Guiding Principles should refer to climate change. Whilst this is referred to in the ‘opportunities and challenges’ section of the Policy, and briefly mentioned in the context statement, NELA(WA) is of the view that the Policy should highlight the value of native vegetation in slowing climate change. A further paragraph should be included under the heading ‘values’ which states:

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<sup>8</sup> See [https://www.anpc.asn.au/wp-content/uploads/2019/03/Translocation-Guidelines\\_FINAL-WEB2.pdf](https://www.anpc.asn.au/wp-content/uploads/2019/03/Translocation-Guidelines_FINAL-WEB2.pdf)

<sup>9</sup> See <https://www.awe.gov.au/sites/default/files/documents/epbc-act-policy-translocation.pdf>

*Western Australia's native vegetation is of environmental value in that it provides significant potential for carbon sequestration.*

By referencing the value of native vegetation for the purposes of carbon sequestration, the Policy will be in better alignment with the outcomes identified in the Western Australian Climate Policy<sup>10</sup> This will lead to regulatory consistency between related policies, and help ensure that the Policy supports the Western Australian State Government's commitment to adapting to climate change and to working with all sectors of the economy to achieve net zero greenhouse gas emissions by 2050.

## **Section 2 – Practice**

In NELA(WA)'s view the section of the Guiding Principles in relation to 'practice' should be updated as follows.

Paragraph 6 states that 'biological diversity and ecological integrity should be fundamental considerations in managing native vegetation.' NELA(WA) is of the view that this principle needs to be changed from the passive sense to the active sense to ensure that biological diversity and ecological integrity are fundamental considerations. The wording should be updated to say:

*Conservation of biological diversity and ecological integrity must be fundamental considerations in managing native vegetation.*

In relation to paragraph 8, NELA (WA) disagrees that 'pastoralism' is an ecologically sustainable use of native vegetation. For example, in 2015, the then Department of Food and Agriculture reported an ongoing decline in pastoral land conditions in Western Australia, noting the serious implications for the sustainability of the industry.<sup>11</sup> A better example to reference would be forms of regenerative agricultural practices, such as carbon sequestration in vegetation and soils, as this is way of land management which results in an ecologically sustainable use that can be balanced with productive land uses.<sup>12</sup>

NELA (WA) is of the view that paragraph 9 contains two separate propositions. It should be split into two separate paragraphs.

This is recommended as paragraph 9 appears to refer to the environmental law principle of 'common but differentiated responsibilities'. This principles acknowledges that all parties have a shared obligation to address environmental destruction whilst acknowledging that not all parties have the same capabilities. Whilst this is generally a principle applied in international environmental law, it can equally apply in this situation to recognise that not all 'organisations, businesses and individuals' noted on page 7 of the Policy have the same capabilities to protect and conserve native vegetation.

Comparatively, paragraph 9 also refers to the environmental law principle of 'intergenerational equity'. This principle provides for the preservation of natural resources and the environment for the benefit of future generations.

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<sup>10</sup> Western Australian Climate Policy (November 2020) page 20.

<sup>11</sup> Department of Food and Agriculture WA, 'Report to the Commissioner of Soil and Land Conservation on the Trend of the Western Australian Pastoral Resource Base' (October 2015) <https://www.agric.wa.gov.au/sites/gateway/files/Report%20to%20the%20Commissioner%20of%20Soil%20and%20Land%20Conservation%20on%20the%20trend%20of%20the%20Western%20Australian%20pastoral%20resource%20base%20October%202015.pdf>, page 45.

<sup>12</sup> Department of Food and Agriculture WA, 'Report to the Commissioner of Soil and Land Conservation on the Trend of the Western Australian Pastoral Resource Base' (October 2015) <https://www.agric.wa.gov.au/sites/gateway/files/Report%20to%20the%20Commissioner%20of%20Soil%20and%20Land%20Conservation%20on%20the%20trend%20of%20the%20Western%20Australian%20pastoral%20resource%20base%20October%202015.pdf>, page 45.

These two principles should not be conflated, which is why NELA (WA) is of the view that they should be addressed in two separate paragraphs. The suggested wording for these principles is below.

*9. Maintaining the ecosystem services and co-benefits of native vegetation is a shared responsibility. Where possible, it should be clearly identified which organisation, business or individual is responsible for a particular aspect of native vegetation conservation, to reflect the specific responsibilities and capacity of different stakeholders*

*10. The health, diversity and productivity of native vegetation must be maintained or enhanced for the benefit of current and future generations*

### **Section 3 – Opportunities and Challenges**

In relation to paragraph 14, NELA (WA) is of the view that reference should be made to the ‘rapid’ decline of WA’s native vegetation. For example, in some local government areas in Western Australia, more than 93% of original vegetation is lost, including clearing of up to 97% of woodland areas.<sup>13</sup>

NELA(WA) strongly supports the wording that “addressing the decline requires coordinated management across all land tenures, supporting connectivity and maintenance of ecosystem function.” However, this Guiding Principle should be strengthened by also referring to the management approach being evidence-based. The following wording is therefore suggested:

*The condition and extent of Western Australia’s native vegetation is rapidly declining. Addressing the decline requires coordinated, evidence-based management across all land tenures, supporting connectivity and maintenance of ecosystem function.*

As noted above, the Guiding Principles should be stated in the active sense rather than the passive sense. It is for this reason that NELA(WA) supports the wording of paragraph 15 in this section being amended to state:

*In the intensive land use zone, in particular the Swan Coastal Plain and the Wheatbelt (as defined in Figure 1 and Glossary), historic clearing has been extensive. A net improvement in the condition and extent of native vegetation must be achieved through strategic coordination and stewardship across sectors, and will restore landscape and ecosystem functions.*

Such an amendment aligns with the current State government’s commitment to improve the protection of, and address the decline in, our native vegetation.<sup>14</sup>

### **CONSULTATION Q3 - HOW WELL DO YOU SUPPORT THE STRATEGIES AND OUTCOMES?**

NELA (WA) is of the view that, subject to the amendments suggested above, the Guiding Principles provide a contemporary foundation for managing native vegetation.

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<sup>13</sup> Department of Biodiversity, Conservation and Attractions (DBCA) 'BCA Statewide Vegetation Statistics' (30 April 2019) <https://catalogue.data.wa.gov.au/dataset/dbca-statewide-vegetation-statistics/resource/0fc225fa-b06b-4da4-b5ed-62a146842389> .

<sup>14</sup> As provided for in the Department of Water and Environmental Regulation 'Native Vegetation in Western Australia - Issues Paper for Public Consultation' (November 2019) [https://consult.dwer.wa.gov.au/native-vegetation/issues-paper/user\\_uploads/nv\\_issues\\_paper\\_final.pdf](https://consult.dwer.wa.gov.au/native-vegetation/issues-paper/user_uploads/nv_issues_paper_final.pdf)

## **CONSULTATION Q4 - HOW SUITABLE ARE THE GOALS AND APPROACHES IN GUIDING IMPLEMENTATION OF THE POLICY?**

The Policy includes various steps:

- a) Strategies;
- b) Outcomes;
- c) Goals;
- d) Approaches;
- e) Roadmap Actions/Objectives; and
- f) Opportunities (which refer to regionally tailored objectives and outcomes).

NELA (WA) submits that there is significant overlap and a lack of clear delineation between the proposed steps, and that this will result in confusion and a lack of coordination in the Policy's implementation.

In our view, the Policy should be amended to only include the following four key steps:

- a) Strategies
- b) Outcomes
- c) Goals
- d) Actions.

This is similar to the WA Climate Policy, which only has four key steps: Vision – Themes – Outcomes – Actions, and will help lead to consistency between policies.

### **Suitability of Goals**

NELA (WA) supports the approach of including goals in the Policy to guide the implementation of the strategies and actions in the roadmap and provide for the evaluation of such implementation. However, we submit that the goals are currently too broad and should be made more specific and tangible through clearer and more direct language.

There is also currently significant overlap between the steps in the Policy. In particular, between the goals, approaches and roadmap actions. We submit that some of the approaches that are too broad to translate to actions, should be moved to 'Goals' or should be expressed more clearly so that a specific action is identified.

In particular, NELA(WA) suggests amendments similar to the below:

### ***STRATEGY 1 - PLANNING, COLLABORATION AND COORDINATION***

NELA (WA) suggests that the below current approaches for Strategy 1 instead be included as goals:

- *Objectives and priorities transparently address native vegetation values, competing priorities and issues and cumulative impacts.*

- *Manage native vegetation to maintain ecosystem services and their co-benefits (e.g. habitat provision, soil health, carbon storage, flood, salinity and erosion mitigation, water provision, temperature control, human health, sustainable grazing, timber and bush products).*
- *Improve the condition of native vegetation by identifying and addressing threats and threatening processes (e.g. climate change, inappropriate fire regimes, inappropriate water regimes and quality, pests and unsustainable use).*
- *Identify lands with strategic value to inform investment in restoration and conservation.*

## **STRATEGY 2 - CONTEMPORARY SYSTEMS AND PRACTICE**

NELA (WA) is concerned that the goals for Strategy 2 in the Policy do not adequately address the required reform of the current regulation of native vegetation in WA, which is essential to improving the protection of native vegetation in WA. The goals therefore should be amended to include a goal similar to the following:

- *Improve regulation of native vegetation to ensure the protection, conservation and restoration of native vegetation in WA.*

## **STRATEGY 3 - KNOWLEDGE – BUILT, SHARED AND USED**

NELA (WA) suggests that the below current approach for Strategy 3 instead be included as a goal to:

- *Improve mapping, monitoring and information systems for tracking outcomes and improving policy and practice.*

NELA (WA) is also concerned that the goals for Strategy 3 in the Policy do not adequately address the importance of decision-making relating to native vegetation being transparent, evidence-based and informed by science. In our view, the goals should be amended to include goals similar to the following:

- *Improve transparency of decisions relating to native vegetation.*
- *Ensure that decisions relating to native vegetation are evidence-based and informed by up-to-date and accurate data and science.*

## **STRATEGY 4 - ALL SECTORS ENABLED**

NELA (WA) suggests that the below current approach for Strategy 4 instead be included as a goal:

- *Manage native vegetation in ways that deliver economic, social and employment opportunities for traditional owners, other Aboriginal people and regional Western Australians.*

NELA (WA) is also concerned that the goals for Strategy 4 in the Policy do not adequately reflect the approaches and actions (which we propose to be consolidated into one set of actions, see below). We suggest the addition of goals that relate to the key issues addressed in those actions, including environmental offsets.

## Suitability of approaches

NELA (WA) submits that the suggested approaches in the Policy should be combined with the roadmap actions to avoid repetition and overlap between approaches and actions, and confusion with their implementation. This will also make the actions more clear, robust and enforceable. Please see below for our suggested amendments.

### ***STRATEGY 1 - PLANNING, COLLABORATION AND COORDINATION***

While NELA(WA) understands that the focus on the protection of native vegetation in the Wheatbelt is a result of a political compromise, we submit that the actions for Strategy 1 should refer to addressing ongoing loss of native vegetation in the whole of WA.

NELA(WA) submits that the approaches and actions for Strategy 1 should be combined and replaced with actions similar to the following:

- *Prioritise areas or matters for strategic collaborations or planning. Identify policy-making pathway(s), spatial boundaries, lead agency, participants and implementation pathways. Prepare framework of relationships between existing policy frameworks, across State Government. Focus on regulatory, land management, land planning and funding responsibilities.*
- *Develop clear, regionally tailored objectives and priorities to guide and align State Government functions, in line with outcomes 1 and 2, and their goals*
- *Implement regionally tailored objectives and priorities through relevant State Government functions, updating documents, processes and systems as appropriate (see Action 2.1b.*
- *Establish monitoring and evaluation against regionally tailored objectives and priorities, leveraging native vegetation extent, condition and type data, and biodiversity audit data supported by Strategy 3 actions.*
- *Leverage existing mechanisms for strategic environmental planning and for coordinating native vegetation management across government.*
- *Evaluate the efficacy of existing State Government mechanisms for native vegetation protection and strategic planning. Collaborate with agencies to progress the recommendations.*
- *Address ongoing loss of native vegetation in WA, in particular the Wheatbelt, through whole-of-government approaches, including (see also Action 3.4):*
  - a) *Prepare a whole-of-government strategy for a nett improvement in WA, in particular the Wheatbelt, native vegetation extent – through coordination of restoration (including offsets); reserve and roadside management; and regulation. Includes defining the policy-making pathway(s), spatial boundaries and stakeholder engagement approach.*
  - b) *Establish a whole-of-government approach to WA, in particular the Wheatbelt, restoration to coordinate offsets, carbon farming, natural resource management funding, regenerative agriculture and other funding streams with conservation investment.*

- c) *Develop and implement a strategic, coordinated, whole-of-government approach to managing roadside vegetation (including for road safety and strategic transport planning).*
- *Establish a new roadside vegetation advisory group under s.25 of the Environmental Protection Act 1986.*
- *Improve coordination of the State Government's mechanisms for managing silvicultural activities (including thinning) in south-west forests and woodlands – across land tenures, for multiple outcomes (e.g. biodiversity, forest health, carbon, reducing fire risk, timber production and water production).*
- *Consult with local people and traditional owners on the native vegetation values that underpin management.*
- *Acquire and effectively manage a comprehensive, adequate and representative reserve (CAR) system for terrestrial and aquatic ecosystems.*

## **STRATEGY 2 - CONTEMPORARY SYSTEMS AND PRACTICE**

NELA(WA) submits that the approaches for Strategy 2 should be combined with the actions and replaced with actions similar to the following:

- *Develop clear, regionally tailored objectives and priorities that provide for regulatory certainty, clear guidance, efficiency and outcome-based regulation (see Action 1.1), and achieve native vegetation and biodiversity objectives.*
- *Apply regionally tailored objectives across State Government functions to ensure action and investment is coordinated and strategic.*
- *Transparently assess regulated proposals against relevant regionally tailored objectives and priorities (see Action 1.3) across State Government regulatory pathways for certainty, fairness, consistent risk management and strategic coordination.*
- *Improve systems and practices for collecting and sharing data on and decisions affecting native vegetation, promoting transparency and enabling a whole-system view of impacts and influences.*
- *Progressively capture decisions that affect native vegetation condition or extent in spatial format, to aligned data standards, supporting data sharing. Identify key pathways for spatial capture of actual (reported) clearing or burning, to support Action 3.1.*
- *Identify and address legislative or other barriers to data capture or sharing, as appropriate.*
- *Improve digital systems:*
  - a) *Progress the Environment Online digital portal and assessment system for environmental and water regulation, including links to BIO (Action 3.3b), as appropriate).*
  - b) *Progress digital systems for capture, interpretation and sharing of biodiversity data, through BIO.*
  - c) *Engage across State and Local government to progress towards a single, publicly accessible digital system for native vegetation data capture, sharing and use. Leverage*

*Environment Online and BIO, and integrate products from Actions 3.1, 3.2 and 3.3, as appropriate.*

- *Improve operational systems, policy and processes for clearing permits (Part V Division 2, Environmental Protection Act 1986) for efficiency and clarity.*
- *Support initiatives to improve rangelands' ecological condition, leveraging pastoral diversification and implementation of the Good Pastoral Land Management Guidelines.*

### **STRATEGY 3 - KNOWLEDGE – BUILT, SHARED AND USED**

NELA(WA) submits that the approaches for Strategy 3 should be combined with the actions and replaced with actions similar to the following:

- *Native vegetation extent: Leverage satellite imagery and machine learning to develop a semi-automated, regularly updated, statewide terrestrial native vegetation extent product. An improved extent product would:*
  - a) *track clearing over time*
  - b) *improve statistics on proportion of vegetation type remaining*
  - c) *enhance compliance and enforcement capacity.*
- *Native vegetation condition:*
  - a) *Develop a product derived from satellite imagery to monitor vegetation condition on pastoral leases.*
  - b) *Build on learnings from pastoral condition spatial product (3.2a) to develop a statewide native vegetation condition product to enable tracking of changes over time.*
- *Biodiversity datasets and native vegetation type mapping:*
  - a) *Expand capture of native vegetation data within the Index of Biodiversity Surveys for Assessment (IBSA).*
  - b) *Progress scientific and system capability to generate updated native vegetation type mapping, leveraging pooled biological survey datasets (e.g. BIO – Action 2.4c).*
- *Improve native vegetation mapping in the Wheatbelt, prioritising mapping to support strategy development (see Action 1.6).*
- *Use sound science, risk assessment, monitoring, reporting and continuous improvement to inform decisions on native vegetation management.*
- *Continue to enhance native vegetation knowledge, and systems for its sharing, analysis and use.*
- *Use traditional and local knowledge of native vegetation to inform objectives, priorities and policy-making.*

## **STRATEGY 4 - ALL SECTORS ENABLED**

NELA(WA) submits that the approaches for Strategy 4 should be combined with the actions and replaced with actions similar to the following

- *Progress and improve how incentives and pricing are used to support good stewardship of native vegetation, including voluntary conservation and restoration on various land tenures, and avoidance and minimisation of clearing:*
  - a) *Explore opportunities/mechanisms for new pricing, market and valuation methods (potentially broader than existing offsets schemes) to incentivise and reward good stewardship, including environmental offsets, and provide economic opportunities.*
  - b) *Support and promote agricultural, pastoral and forestry land uses that fix carbon, support biodiversity, promote soil health and other ecosystem services and co-benefits.*
- *Environmental offsets:*
  - a) *Improve the environmental offsets framework in line with recommendations of the WA environmental offsets framework review.*
  - b) *Undertake a broad strategic evaluation of environmental offsets to enable flexibility and clarity; encourage rehabilitation and revegetation; and ensure offsets contribute to strategic regional priorities.*

## **CONSULTATION Q5 - WHICH ROADMAP ACTIONS ARE MOST IMPORTANT?**

In NELA (WA)'s view, the most important roadmap actions are those which proactively protect native vegetation from further degradation by conserving and restoring native vegetation and preventing and disincentivising unauthorised clearing, and those which monitor and capture the current state of native vegetation and clearing in Western Australia to ensure that future decisions are evidence-based and underpinned by science. Actions relating to improved public consultation and engagement are also important.

In NELA(WA)'s view, the most important actions include the following:

### **Action 1.6:**

*Address ongoing loss of native vegetation in WA, in particular the Wheatbelt, through whole-of-government approaches, including (see also Action 3.4)*

- (a) *Prepare a whole-of-government strategy for a net improvement in WA, in particular the Wheatbelt, native vegetation extent – through coordination of restoration (including offsets); reserve and roadside management; and regulation. Includes defining the policy-making pathway(s), spatial boundaries and stakeholder engagement approach.*
- (b) *Establish a whole-of-government approach to WA, in particular the Wheatbelt, restoration to coordinate offsets, carbon farming, natural resource management funding, regenerative agriculture and other funding streams with conservation investment.*
- (c) *Develop and implement a strategic, coordinated, whole-of-government approach to managing roadside vegetation (including for road safety and strategic transport planning).*

Action 1.6 is critical as it calls for a holistic approach to addressing native vegetation, and connects to actions identified in other relevant policies, and actions already planned or beginning to be implemented. For example, Western Australia's Climate Change Policy, includes the Native Vegetation Rehabilitation Scheme as an action. This scheme identifies that investing in revegetation, habitat restoration and protection of existing vegetation to deliver at-scale environmental outcomes. The WA Recovery Plan, as includes the Government's Green Jobs Plan which is aimed at regenerating native vegetation.<sup>15</sup> It is important that there is a whole of government approach to address the ongoing loss of native vegetation, and this requires that a strategic approach is adopted that brings together initiatives in other regulatory areas that will lead to a net improvement.

**Action 2.5:**

*Improve operational systems, policy and processes for clearing permits (Part V Division 2, Environmental Protection Act 1986) for efficiency and clarity.*

Action 2.5 is important as clearing permits are the key DWER approval related to native vegetation, and enable the holder to clear native vegetation, without meeting one of the exemptions currently contained in Part V of the *Environmental Protection Act 1986* (WA). However, in NELA(WA)'s view this action could be strengthened by referring to the reform of current regulation of native vegetation and also implementation of this regulation

**Action 3.1**

*Native vegetation extent: Leverage satellite imagery and machine learning to develop a semi-automated, regularly updated, statewide terrestrial native vegetation extent product. An improved extent product would:*

- (a) *track clearing over time*
- (b) *improve statistics on proportion of vegetation type remaining*
- (c) *enhance compliance and enforcement capacity.*

**Action 3.2:**

*Native vegetation condition:*

- (a) *Develop a product derived from satellite imagery to monitor vegetation condition on pastoral leases.*
- (b) *Build on learnings from pastoral condition spatial product (3.2a) to develop a statewide native vegetation condition product to enable tracking of changes over time.*

In NELA(WA)'s view, actions 3.1 and 3.2 are important as they emphasis the importance of updating to be consistent with technological advances, and industry best practice, which will help improve Western Australia's statical data on native vegetation extent and condition, and enhance compliance and enforcement capacity. These are critical for the success of the entire policy, as improving understanding of the native vegetation extent and condition in the state will help to ensure that native vegetation is efficiency, effectively and sustainably managed.

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<sup>15</sup>Government of Western Australia, WA Recovery Plan, July 2020, <https://www.wa.gov.au/sites/default/files/2020-07/WA-Recovery-Plan.pdf> page 45

**Action 4.1:**

*Progress and improve how incentives and pricing are used to support good stewardship of native vegetation, including avoidance and minimisation of clearing:*

- (c) Explore opportunities for new pricing and valuation methods to incentivise stewardship, including environmental offsets.*
- (d) Support and promote agricultural, pastoral and forestry land uses that fix carbon, support biodiversity, promote soil health and other ecosystem services.*

Action 4.1 is also critical, as it reflects the role for private interest holders to play a role in implementing the policy, paving the way for a co-regulatory approach, where the regulator encourages actions that support good stewardship of native vegetation, which reduces cost and regulatory burden for the regulator.

**CONCLUSION**

If you have any questions about the above, please do not hesitate to contact us at [president@nela.org.au](mailto:president@nela.org.au)

**WESTERN AUSTRALIAN DIVISION OF THE NATIONAL ENVIRONMENTAL LAW ASSOCIATION**