

# BIODIVERSITY CONSERVATION ACT AND REGULATIONS

Ken Atkins

Department of Biodiversity, Conservation and Attractions



ROTTNEST <sup>IS</sup>



# BIODIVERSITY CONSERVATION ACT 2016

Will provide for modern biodiversity conservation legislation in Western Australia

Will ultimately replace the:

- *Wildlife Conservation Act 1950*
- *Sandalwood Act 1929*
- and their associated Regulations



Not *Environmental Protection Act 1986*

# BIODIVERSITY CONSERVATION ACT 2016

- *Biodiversity Conservation Act 2016*
    - Royal assent 21 September 2016
  - Partial proclamation of Act - 3 December 2016
  - Parts proclaimed are those that do not require Regulations (new matters), e.g.:
    - Biodiversity management programmes
    - Biodiversity conservation agreements
    - Biodiversity Conservation Covenants
1. Biodiversity Conservation Regulations
  2. Ministerial Guidelines

## ***Ministerial Guidelines***

- Basic criteria in Act for nominating/listing
  - threatened species,
  - threatened ecological communities,
  - specially protected species,
  - critical habitat, and
  - key threatening processes.
- Ministerial Guidelines provide the detailed listing criteria and procedures – IUCN as international and national standard
- Minister will publish these guidelines, can be updated as required (eg change to listing criteria)
- Transition of the current lists of TS & TECs

# DEVELOPMENT OF THE BIODIVERSITY CONSERVATION REGULATIONS

- Guiding principles:
  - regulatory reform – review of licensing activities
  - streamlining licensing arrangements
  - modern interface (web-based applications and payment)
  - support small business and the community
  - cost recovery



## ***Biodiversity licensing***

- Proposed commencement on 1 January 2019
- Existing Wildlife Conservation Act (and Sandalwood Act) licences will transition to new Biodiversity licences
- If new licence type applies, will not be required until existing licence expires, or 1/1/2019 if no licence
- Review of licence fees (cost recovery)
- Most will have modest fee increases, some reduced
- Able to do licence renewal and amendment (reduced fee)
- Options for multiyear licences – not transferable

## ***Flora (seed) licensing – the significant changes***

- Increased penalties for ‘general’ flora - \$50,000 (was \$4,000)
- Differential penalties & protection for TS and TEC  
Max \$500,000/\$2.5M (*Sentencing Act 1995*)
- Flora or fauna bioprospecting
- Flora dealer’s licence (see below)
- Sandalwood industry (not seed)
  - dealers and processors and tracking system.
  - significant penalties - \$200,000/\$1M



## ***Biodiversity licensing – flora industry (1)***

- Licence to take flora from Crown land:
  - Persons doing taking must be licensed
  - Can have authorised persons on the licence assisting (supervised) e.g. sorting, preparing
  - Flora take Crown land (\$125) - \$150/\$120
- Licence to supply flora from private land
  - No licence to harvest on property
  - Flora supply private property (\$25) - \$45/\$30
  - Wild and cultivated - satisfies EPBC Act requirement





## ***Biodiversity Licensing System***

- Single login to all your licences and licensing information
- On-line licence applications, amendments, permits, endorsements, notifications, submission of returns etc.
- On-line payments
- Ability for licensee to link themselves to one or more companies
- Ability for companies to view licences for linked employees and associated contractors



## ***Biodiversity licensing – flora industry (2)***

- Licensing arrangement
  - Retain licence number (all licences linked)
  - Ability to do licence amendments – no fee if minor
  - DBCA process electronic – sent to regional officers and assessment officers on-line
  - Picker/supplier to submit returns
  - Individual licences linked to company proposed to be able to be covered by combined return

## ***Biodiversity licensing – flora industry (3)***

- Flora processing:
  - Processing licences limited to significant activities
    - Extracting oil
    - Processing wood as craftwood, chips or dust
    - Milling timber
    - **Not** stripping leaves, colouring flowers
    - **Not** seed extraction or cleaning

## ***Biodiversity licensing – flora industry (4)***

- Flora dealing:
  - Defined in Act as a business that purchases **or** supplies flora
  - Flora dealing licence:
    - Dealers only those who receive and on-sell to a person who is going to then sell
    - Excludes end-point retailers
    - Excludes living potted plants (nursery)
    - Only first dealer to be licensed
    - All dealers to hold records for 24 months
    - Flora dealer/processor - \$215/\$180

## ***Consultation***

- Consultation web page on DBCA site:
  - <https://www.dpaw.wa.gov.au/plants-and-animals/biodiversity-conservation-act>
  - Discussion notes for different sectors
  - Ministerial Guidelines
- Stakeholder meetings
- *biodiversity@dbca.wa.gov.au*

