

**WESTERN  
AUSTRALIAN  
GOVERNMENT**  
**Gazette**

521



PERTH, TUESDAY, 18 FEBRUARY 2003 No. 24 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

© STATE OF WESTERN AUSTRALIA

ENVIRONMENTAL PROTECTION ACT 1986

---

**ENVIRONMENTAL  
PROTECTION (WESTERN  
SWAMP TORTOISE HABITAT)  
POLICY APPROVAL ORDER  
2002**



Environmental Protection Act 1986

## **Environmental Protection (Western Swamp Tortoise Habitat) Policy Approval Order 2002**

### **Background to the approval of the *Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002*.**

*The Government of Western Australia —*

- (a) *is conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational, aesthetic and natural values of biological diversity and its components;*
- (b) *recognises its obligations under the Intergovernmental Agreement on the Environment made between the Commonwealth, the States and Territories, and the Australian Local Government Association on 1 May 1992 to establish “ground rules” under which these parties will interact on the environment, especially in relation to land-use decisions, biological diversity and nature conservation;*
- (c) *is cognisant of Australia’s assent to the United Nations Environment Program (UNEP) International Convention on Biological Diversity, 5 June 1992, namely to conserve biological diversity in situ, use its components sustainably and share the benefits arising from the use of genetic resources fairly and equitably;*

**Environmental Protection (Western Swamp Tortoise Habitat) Policy  
Approval Order 2002**

---

- (d) *recognises its obligations under the National Strategy for the Conservation of Australia's Biological Diversity (1996), to protect biological diversity and maintain ecological processes and life support systems;*
- (e) *is concerned that the habitat of the western swamp tortoise may be significantly degraded by certain human activities, and that such degradation poses a serious threat to the in-situ conservation of biological diversity;*
- (f) *is concerned that concentrations and loads of wastewater, nutrients, sediments, pesticides and other materials that could have a detrimental effect on the western swamp tortoise may be increasing in both the habitat and its catchment;*
- (g) *identifies the need to adopt an ecosystem management approach which is driven by environmental objectives, implemented by policies, protocols and best management practices and, where appropriate, made adaptable by monitoring and research;*
- (h) *acknowledges that ecosystem management will be required that is based on the best understanding of the ecological interactions and processes necessary to sustain ecosystem structure and function intergenerationally;*
- (i) *affirms its commitment to protect habitat suitable for the reintroduction and survival of wild populations of the western swamp tortoise and to prevent further pollution and degradation of such habitat and acknowledges this cannot be achieved independently of the ecosystems of which these habitats are a part; and*
- (j) *is aware that there is a pressing need to strengthen measures to protect the western swamp tortoise and its habitat and that extinction of the western swamp tortoise in the wild would likely constitute a failing, both nationally and internationally, to conserve endangered species, genetic diversity and biological diversity.*

***Environmental Protection (Western Swamp Tortoise Habitat) Policy  
Approval Order 2002***

---

**cl. 1**

Made by the Minister under section 31(d).

**1. Citation**

This order may be cited as the *Environmental Protection (Western Swamp Tortoise Habitat) Policy Approval Order 2002*.

**2. Approval of environmental protection policy**

The *Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002*, set out in Appendix 1 to this order, is approved.

JUDY EDWARDS, Minister for the Environment and Heritage.

---



**Appendix 1**  
**to the**  
***Environmental Protection (Western Swamp Tortoise***  
***Habitat) Policy Approval Order 2002***

Environmental Protection Act 1986

**Environmental Protection (Western Swamp**  
**Tortoise Habitat) Policy 2002**

Approved by the Minister under s. 31(d).

**Part 1 — Preliminary**

**1. Citation**

This policy may be cited as the *Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002*.

**2. Purpose of the policy**

The purpose of this policy is to protect habitat suitable for the long-term survival of wild populations of the western swamp tortoise.

**3. Interpretation**

- (1) In this policy, unless the contrary intention appears —  
“**beneficial uses**” means the beneficial uses declared under clause 7;

**Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002****Part 1** Preliminary**cl. 3**

---

**“Ellen Brook Nature Reserve”** means Reserve no. 27620 classified as a class “A” reserve vested in the Conservation Commission of Western Australia for the purpose of preservation of fauna, namely the western swamp tortoise, and includes Reserve no. 42126 classified as a class “A” reserve vested in the Conservation Commission of Western Australia for the purpose of conservation of flora and fauna;

**“map”** means Environmental Protection Policy Map WST JUN02 prepared by the Department, a copy of which is set out in Schedule 1 for information purposes;

**“policy area”** means the area of land delineated in the map as “policy area”;

**“pollutant”** means any matter or thing that is likely to alter, directly or indirectly, the environment to the detriment of the western swamp tortoise habitat’s capacity to support the western swamp tortoise;

**“public authority”** means a public authority as defined in section 3(1) of the Act that is empowered by or under a written law to make a decision or take action that could impact on the beneficial uses;

**“this policy”** means this environmental protection policy;

**“Twin Swamps Nature Reserve”** means Reserve no. 27621 classified as a class “A” reserve vested in the Conservation Commission of Western Australia for the purpose of preservation of fauna, namely the western swamp tortoise;

**“western swamp tortoise”** means the animal species *Pseudemadura umbrina* commonly known as “western swamp tortoise” or “short-necked tortoise”;

**“western swamp tortoise habitat”** means the habitat of the western swamp tortoise occurring —

- (a) in the Ellen Brook Nature Reserve, in the area delineated in the map as “western swamp tortoise habitat”; or



***Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002***

Preliminary

**Part 1****cl. 4**

---

(b) in the Twin Swamps Nature Reserve, in the area delineated in the map as “western swamp tortoise habitat”.

- (2) Unless the contrary intention appears, words and expressions used in this policy that are given a meaning in the Act have the meaning so given.

**4. Inspection of map**

The Department is to make a copy of the map available for inspection by members of the public during normal office hours at the Department’s head office in Perth.

**5. Application of policy**

This policy applies to the portion of the environment comprising the policy area.

**Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002****Part 2** Basis for protection of the western swamp tortoise habitat**cl. 6**

---

**Part 2 — Basis for protection of the western swamp tortoise habitat****6. Basis for western swamp tortoise habitat protection**

The basis on which the western swamp tortoise habitat is to be protected is —

- (a) knowledge of ecological processes and the interconnectedness of terrestrial and aquatic ecosystems;
- (b) discharges to the western swamp tortoise habitat not exceeding pollutant levels that would be to the detriment of any of the beneficial uses;
- (c) maintenance of water quality and quantity such that ecological processes and ecological integrity are not threatened, impaired or degraded; and
- (d) appropriate land use, land management planning, fire management and conservation planning in the policy area,

having regard to —

- (e) goals, objectives and principles encapsulated in the *National Strategy for Ecologically Sustainable Development* (1992), in particular, the protection of biological diversity and maintenance of essential ecological processes and life support systems; and
- (f) goals, objectives and principles encapsulated in the *Intergovernmental Agreement on the Environment* (1992), in particular the principles set out in the Table to this paragraph.

**Table***The precautionary principle*

Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

**Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002**

Basis for protection of the western swamp tortoise habitat

**Part 2****cl. 7**

In the application of the precautionary principle, decisions should be guided by —

- (a) careful evaluation to avoid, where practicable, serious or irreversible damage to the environment; and
- (b) an assessment of the risk-weighted consequences of various options.

*The principle of intergenerational equity*

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

*The principle of the conservation of biological diversity and ecological integrity*

Conservation of biological diversity and ecological integrity should be a fundamental consideration.

**7. Beneficial uses of the western swamp tortoise habitat to be protected**

The uses of the western swamp tortoise habitat that are declared to be beneficial uses to be protected under this policy are as follows —

- (a) its use as a resource for maintaining ecological processes, ecological integrity and ecological functions upon which the survival of viable wild populations of the western swamp tortoise depends;
- (b) its use as a resource for studying the western swamp tortoise and the habitat upon which the survival of the tortoise in the wild depends; and
- (c) its use as a basis for conserving biological diversity and maintaining a diverse natural environment in the policy area for present and future generations.

**Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002****Part 3** Programme for protection of the beneficial uses**cl. 8**

---

**Part 3 — Programme for protection of the beneficial uses****8. Environmental quality objective**

The environmental quality objective to be achieved and maintained by means of this policy is the protection of the beneficial uses.

**9. Programme for achieving and maintaining the environmental quality objective**

The environmental quality objective is to be achieved and maintained through —

- (a) the Western Swamp Tortoise Recovery Plan prepared by the Department assisting the Minister to whom the administration of the *Wildlife Conservation Act 1950* is committed;
- (b) each landowner in the policy area and each public authority managing land in a manner that minimises or avoids impacts from activities which might degrade the western swamp tortoise habitat;
- (c) government promoting awareness of this policy and providing advice and other services to landowners in the policy area for the purpose of minimising or avoiding impacts from activities which might degrade the western swamp tortoise habitat;
- (d) each public authority, including the Authority but not a Minister of the Crown, ensuring that each of its decisions or actions that could impact on the beneficial uses —
  - (i) is compatible with the protection of the beneficial uses; and

**Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002**

Programme for protection of the beneficial uses

**Part 3****cl. 10**

- (ii) minimises or avoids impacts from activities which might degrade the western swamp tortoise habitat;
- (e) each public authority, other than a Minister of the Crown, responding promptly to a request of the Authority to provide information on a decision or action of the public authority that could impact on the beneficial uses;
- (f) public authorities, other than Ministers of the Crown, coordinating, and liaising closely on, the development of catchment management plans, schemes, and land planning strategies, policies and plans to ensure an approach consistent with this policy;
- (g) each public authority that is a Minister of the Crown having regard to this policy when taking a decision or action that could impact on the beneficial uses.

**10. Interpretation: decisions and actions**

For the purposes of clause 9(d), (e) and (g), decisions or actions include, but are not limited to —

- (a) decisions or actions involved in the development of catchment management plans;
- (b) decisions or actions taken under any of the Acts listed in the Table to this clause.

**Table**

<i>Bush Fires Act 1954</i>	<i>Metropolitan Region Town Planning Scheme Act 1959</i>
<i>Conservation and Land Management Act 1984</i>	<i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i>
<i>Country Areas Water Supply Act 1947</i>	<i>Mining Act 1978</i>
<i>Electricity Corporation Act 1994</i>	<i>Rights in Water and Irrigation Act 1914</i>

**Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002****Part 3** Programme for protection of the beneficial uses**cl. 11**

<i>Environmental Protection Act 1986</i>	<i>Soil and Land Conservation Act 1945</i>
<i>Health Act 1911</i>	<i>Town Planning and Development Act 1928</i>
<i>Land Drainage Act 1925</i>	<i>Water and Rivers Commission Act 1995</i>
<i>Local Government Act 1995</i>	<i>Western Australian Planning Commission Act 1985</i>
<i>Local Government (Miscellaneous Provisions) Act 1960</i>	<i>Wildlife Conservation Act 1950</i>
<i>Main Roads Act 1930</i>	

**11. Interpretation: degradation of habitat**

For the purposes of clause 9(b), (c) and (d)(ii), activities which might degrade the western swamp tortoise habitat include, but are not limited to —

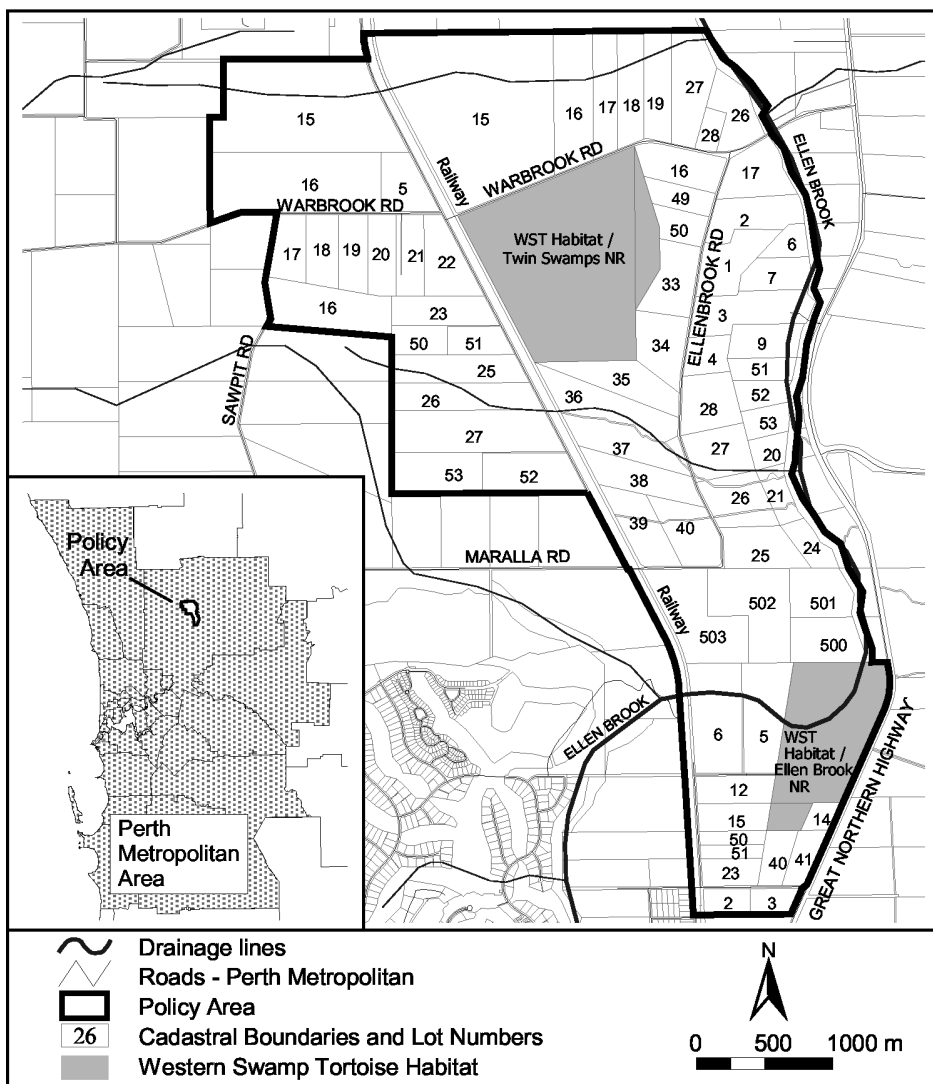
- (a) the application of fertilisers and pesticides;
- (b) the disposal of liquid and solid wastes;
- (c) the discharge of polluting substances;
- (d) the extraction of basic raw materials;
- (e) the construction of drainage systems;
- (f) the placement of fill;
- (g) the abstraction of groundwater;
- (h) the clearing of vegetation; and
- (i) the lighting of unauthorised fires.

*Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002*

Copy of map **Schedule 1**

**Schedule 1 — Copy of map**

[cl. 3]



JUDY EDWARDS, Minister for the Environment and Heritage.

