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Environmental Protection Act 1986

Environmental Protection (Western Swamp Tortoise Habitat) Policy Approval Order 2011

Made by the Minister under sections 31(d) and 33 of the Act.

Background to the approval of the *Environmental Protection (Western Swamp Tortoise Habitat) Policy 2011*

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; and*
- (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; and*
- (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*

**Environmental Protection (Western Swamp Tortoise Habitat) Policy
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components sustainably and share the benefits arising from the use of genetic resources fairly and equitably; and

- (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; and*
- (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; and*
- (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 western swamp tortoise habitat and its catchment; and*
- (g) identifies the need to adopt an ecosystem management approach that is driven by environmental objectives, implemented by policies, protocols and best management practices and, where appropriate, made adaptable by monitoring and research; and*
- (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 for future generations; and*
- (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 that habitat and acknowledges this cannot be achieved independently of the ecosystems of which these habitats are a part; and*

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cl. 1

(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.*

1. Citation

This order is the *Environmental Protection (Western Swamp Tortoise Habitat) Policy Approval Order 2011*.

2. Approval of 2011 environmental protection policy

The *Environmental Protection (Western Swamp Tortoise Habitat) Policy 2011*, which is set out in the Appendix, is approved.

3. Revocation of approval of 2002 environmental protection policy

The approval of the *Environmental Protection (Western Swamp Tortoise Habitat) Policy 2002* under the *Environmental Protection (Western Swamp Tortoise Habitat) Policy Approval Order 2002* is revoked.

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

Part 1 Preliminary

cl. 1

Appendix

Environmental Protection Act 1986

Environmental Protection (Western Swamp Tortoise Habitat) Policy 2011

Approved by the Minister under section 31(d).

Part 1 — Preliminary

1. Citation

This policy is the *Environmental Protection (Western Swamp Tortoise Habitat) Policy 2011*.

2. Purpose

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

3. Terms used

(1) In this policy —

beneficial uses means the beneficial uses declared under clause 7;

Ellen Brook Nature Reserve means —

- (a) Reserve No. 27620, classified as a class A reserve and vested in the Conservation Commission of Western Australia for the purpose of preservation of fauna, namely the western swamp tortoise; and

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Appendix

Preliminary

Part 1

cl. 3

- (b) Reserve No. 42126, classified as a class A reserve and vested in the Conservation Commission of Western Australia for the purpose of conservation of flora and fauna;

map means Environmental Protection Policy Map WST JUL11 prepared by the Department;

policy area has the meaning given in clause 4;

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 and 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

Pseudemydura umbrina commonly known as "western swamp tortoise" or "short-necked tortoise";

western swamp tortoise habitat means the area comprising the Ellen Brook Nature Reserve and the Twin Swamps Nature Reserve.

- (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.

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Appendix

Part 2 Basis for protection of the western swamp tortoise habitat
cl. 4

4. Policy area

- (1) The policy area is the area defined by boundaries joining sequentially the points the coordinates of which are listed in Schedule 1.
- (2) The policy area is indicated on the map, a representation of which is set out in Schedule 2 for information purposes.
- (3) A copy of the map is 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.

**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; and
- (b) discharges to the western swamp tortoise habitat not exceeding pollutant levels that would be to the detriment of any of the beneficial uses; and
- (c) maintenance of water quality and quantity so 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,

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Basis for protection of the western swamp tortoise habitat

Part 2

cl. 6

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.

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.

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.

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Appendix

Part 3 Programme for protection of the beneficial uses
cl. 7

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

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

- (a) its use as a resource for maintaining ecological processes, ecological integrity and ecological functions on which the survival of viable wild populations of the western swamp tortoise depends; and
- (b) its use as a resource for studying the western swamp tortoise and the habitat on 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.

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 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;

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Appendix

Programme for protection of the beneficial uses

Part 3

cl. 9

- (b) each landowner in the policy area, and each public authority, managing land in the policy area in a manner that minimises or avoids impacts from activities that 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 that 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
 - (ii) minimises or avoids impacts from activities that 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 that they are developed to be consistent with this policy;
- (g) each public authority that is a Minister of the Crown having regard to this policy when making a decision or taking action that could impact on the beneficial uses.

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Appendix

Part 3 Programme for protection of the beneficial uses

cl. 10

10. Decisions and actions: cl. 9(d), (e) and (g)

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; and
- (b) decisions made or actions taken under any of the Acts listed in the Table.

Table

<i>Bush Fires Act 1954</i>	<i>Conservation and Land Management Act 1984</i>
<i>Contaminated Sites Act 2003</i>	<i>Country Areas Water Supply Act 1947</i>
<i>Electricity Corporations Act 2005</i>	<i>Environmental Protection Act 1986</i>
<i>Government Railways Act 1904</i>	<i>Health Act 1911</i>
<i>Land Drainage Act 1925</i>	<i>Local Government Act 1995</i>
<i>Local Government (Miscellaneous Provisions) Act 1960</i>	<i>Main Roads Act 1930</i>
<i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i>	<i>Mining Act 1978</i>
<i>Planning and Development Act 2005</i>	<i>Rights in Water and Irrigation Act 1914</i>
<i>Soil and Land Conservation Act 1945</i>	<i>Swan and Canning Rivers Management Act 2006</i>
<i>Wildlife Conservation Act 1950</i>	

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Programme for protection of the beneficial uses

Part 3

cl. 11

11. Degradation of habitat: cl. 9(b), (c) and (d)(ii)

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

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

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Schedule 1 Policy area

Schedule 1 — Policy area

[cl. 4(1)]

Point	Easting coordinate	Northing coordinate
1	408898.79	6486325.87
2	408766.92	6486026.81
3	408677.94	6485825.02
4	408505.73	6485434.49
5	408503.96	6485430.47
6	408465.79	6485393.78
7	408464.51	6485390.86
8	408385.30	6485211.20
9	408139.12	6485209.23
10	408088.31	6485208.82
11	407758.59	6485206.18
12	407753.94	6485206.18
13	407723.65	6485206.19
14	407693.39	6485206.19
15	407693.40	6485206.09
16	407673.25	6485206.13
17	407671.50	6485233.61
18	407668.94	6485273.80
19	407666.39	6485314.01
20	407663.83	6485354.21
21	407661.27	6485394.41
22	407659.59	6485420.73
23	407647.19	6485615.57

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Policy area **Schedule 1**

Point	Easting coordinate	Northing coordinate
24	407634.39	6485816.65
25	407608.81	6486218.65
26	407607.53	6486238.77
27	407581.94	6486640.72
28	407576.00	6486734.09
29	407568.27	6486855.52
30	407564.94	6486894.47
31	407560.24	6486932.75
32	407553.94	6486970.88
33	407546.08	6487008.85
34	407537.46	6487042.96
35	407534.44	6487054.70
36	407520.49	6487100.27
37	407507.54	6487136.54
38	407493.18	6487172.38
39	407490.09	6487179.27
40	407477.34	6487207.63
41	407459.93	6487242.54
42	407246.98	6487649.09
43	407202.99	6487733.07
44	407191.67	6487733.01
45	407177.41	6487760.25
46	406897.84	6488294.43
47	406542.72	6488292.52

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Schedule 1 Policy area

Point	Easting coordinate	Northing coordinate
48	406185.00	6488290.61
49	406133.50	6488290.33
50	405988.58	6488289.55
51	405827.16	6488288.69
52	405470.29	6488286.91
53	405469.60	6488587.97
54	405469.13	6488796.37
55	405468.91	6488891.25
56	405468.45	6489096.37
57	405468.42	6489109.45
58	405467.98	6489301.48
59	405467.71	6489418.87
60	405467.68	6489431.91
61	404554.85	6489509.67
62	404585.25	6489564.04
63	404541.12	6489828.96
64	404549.08	6489874.65
65	404596.87	6490149.11
66	404625.05	6490310.96
67	404626.15	6490317.25
68	404626.44	6490318.89
69	404630.28	6490344.49
70	404628.25	6490344.49
71	404366.78	6490343.95

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Policy area **Schedule 1**

Point	Easting coordinate	Northing coordinate
72	404140.03	6490263.02
73	404139.10	6490734.76
74	404139.10	6490781.72
75	404139.10	6491037.20
76	404239.05	6491037.37
77	404238.38	6491442.34
78	404238.32	6491442.34
79	404238.19	6491462.46
80	405013.66	6491464.12
81	405275.69	6491464.68
82	405293.54	6491464.82
83	405293.52	6491464.87
84	405293.45	6491465.13
85	405293.23	6491465.97
86	405292.83	6491467.52
87	405292.43	6491469.07
88	405292.03	6491470.62
89	405291.64	6491472.17
90	405291.24	6491473.72
91	405290.85	6491475.27
92	405290.46	6491476.82
93	405290.07	6491478.37
94	405289.68	6491479.93
95	405289.30	6491481.48

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Schedule 1 Policy area

Point	Easting coordinate	Northing coordinate
96	405288.91	6491483.03
97	405288.53	6491484.59
98	405288.15	6491486.14
99	405287.78	6491487.70
100	405287.40	6491489.25
101	405287.03	6491490.81
102	405286.66	6491492.36
103	405286.29	6491493.92
104	405285.93	6491495.48
105	405285.56	6491497.04
106	405285.20	6491498.59
107	405284.84	6491500.15
108	405284.48	6491501.71
109	405284.13	6491503.27
110	405283.77	6491504.83
111	405283.42	6491506.39
112	405283.07	6491507.96
113	405282.72	6491509.52
114	405282.38	6491511.08
115	405282.03	6491512.64
116	405281.69	6491514.20
117	405281.35	6491515.77
118	405281.01	6491517.33
119	405280.68	6491518.90

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Policy area **Schedule 1**

Point	Easting coordinate	Northing coordinate
120	405280.34	6491520.46
121	405280.01	6491522.03
122	405279.68	6491523.59
123	405279.36	6491525.16
124	405279.03	6491526.73
125	405278.71	6491528.29
126	405278.39	6491529.86
127	405278.07	6491531.43
128	405277.75	6491533.00
129	405277.43	6491534.56
130	405277.12	6491536.13
131	405276.81	6491537.70
132	405276.50	6491539.27
133	405276.19	6491540.84
134	405275.89	6491542.41
135	405275.59	6491543.99
136	405275.29	6491545.56
137	405274.99	6491547.13
138	405274.69	6491548.70
139	405274.40	6491550.27
140	405274.11	6491551.85
141	405273.81	6491553.42
142	405273.53	6491554.99
143	405273.24	6491556.57

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Schedule 1 Policy area

Point	Easting coordinate	Northing coordinate
144	405272.96	6491558.14
145	405272.67	6491559.72
146	405272.39	6491561.29
147	405272.12	6491562.87
148	405271.84	6491564.44
149	405271.57	6491566.02
150	405271.30	6491567.60
151	405271.03	6491569.18
152	405270.76	6491570.75
153	405270.49	6491572.33
154	405270.23	6491573.91
155	405269.97	6491575.49
156	405269.71	6491577.07
157	405269.45	6491578.65
158	405269.20	6491580.22
159	405268.94	6491581.80
160	405268.69	6491583.38
161	405268.44	6491584.97
162	405268.20	6491586.55
163	405267.95	6491588.13
164	405267.71	6491589.71
165	405267.47	6491591.29
166	405267.23	6491592.87
167	405266.99	6491594.46

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Policy area **Schedule 1**

Point	Easting coordinate	Northing coordinate
168	405266.76	6491596.04
169	405266.53	6491597.62
170	405266.30	6491599.20
171	405266.07	6491600.79
172	405265.84	6491602.37
173	405265.62	6491603.96
174	405265.40	6491605.54
175	405265.18	6491607.13
176	405264.96	6491608.71
177	405264.74	6491610.30
178	405264.53	6491611.88
179	405264.32	6491613.47
180	405264.11	6491615.05
181	405263.90	6491616.64
182	405263.70	6491618.23
183	405263.49	6491619.81
184	405263.29	6491621.40
185	405263.09	6491622.99
186	405262.90	6491624.58
187	405262.70	6491626.17
188	405262.51	6491627.75
189	405262.32	6491629.34
190	405262.13	6491630.93
191	405261.94	6491632.52

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Schedule 1 Policy area

Point	Easting coordinate	Northing coordinate
192	405261.76	6491634.11
193	405261.58	6491635.70
194	405261.40	6491637.29
195	405261.22	6491638.88
196	405261.04	6491640.47
197	405260.87	6491642.06
198	405260.70	6491643.65
199	405260.53	6491645.24
200	405260.36	6491646.83
201	405260.19	6491648.42
202	405260.03	6491650.02
203	405259.87	6491651.61
204	405259.83	6491652.01
205	405321.10	6491652.50
206	405345.17	6491653.11
207	405679.48	6491656.07
208	405799.07	6491657.13
209	405880.62	6491657.85
210	406250.56	6491661.13
211	406252.71	6491661.15
212	406323.11	6491661.78
213	406647.42	6491664.65
214	406936.51	6491667.21
215	407116.13	6491668.81

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Point	Easting coordinate	Northing coordinate
216	407311.91	6491670.54
217	407513.60	6491672.33
218	407719.41	6491674.15
219	407722.67	6491674.18
220	407764.72	6491674.56
221	407765.37	6491673.44
222	407813.63	6491591.16
223	407864.43	6491508.91
224	407887.13	6491472.17
225	407969.82	6491413.12
226	408093.05	6491290.73
227	408139.14	6491228.14
228	408217.84	6491121.29
229	408173.57	6491050.10
230	408208.25	6490988.62
231	408209.94	6490985.62
232	408238.64	6490934.74
233	408244.86	6490916.83
234	408333.86	6490811.69
235	408344.28	6490778.93
236	408389.33	6490637.30
237	408447.23	6490545.05
238	408493.52	6490471.31
239	408528.74	6490324.02

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Schedule 1 Policy area

Point	Easting coordinate	Northing coordinate
240	408537.52	6490260.25
241	408552.82	6490149.10
242	408563.66	6490070.36
243	408573.82	6490022.20
244	408597.38	6489926.84
245	408551.85	6489789.42
246	408555.28	6489782.03
247	408600.81	6489684.15
248	408559.73	6489579.00
249	408546.42	6489534.19
250	408501.73	6489383.70
251	408490.44	6489285.40
252	408470.15	6489133.17
253	408461.47	6489106.02
254	408425.14	6488992.38
255	408427.93	6488978.24
256	408444.60	6488893.83
257	408445.86	6488844.74
258	408437.13	6488759.30
259	408429.09	6488680.62
260	408426.82	6488658.37
261	408420.13	6488592.97
262	408417.79	6488531.20
263	408417.45	6488522.46

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Policy area **Schedule 1**

Point	Easting coordinate	Northing coordinate
264	408390.49	6488429.01
265	408471.51	6488249.99
266	408537.48	6488156.75
267	408553.66	6488131.27
268	408633.09	6488006.25
269	408749.46	6487921.04
270	408755.14	6487902.85
271	408759.60	6487888.56
272	408805.34	6487742.14
273	408861.12	6487649.09
274	408910.02	6487567.53
275	408889.04	6487415.25
276	408900.24	6487382.73
277	408979.34	6487152.91
278	408978.41	6487054.55
279	409024.96	6487054.93
280	409090.54	6487055.47
281	409097.07	6487017.65
282	409105.72	6486967.63
283	409107.79	6486920.46
284	409109.27	6486886.60
285	409099.56	6486803.83
286	409071.91	6486718.47
287	408999.83	6486555.01

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Schedule 1 Policy area

Point	Easting coordinate	Northing coordinate
288	408919.41	6486372.63
289	408898.79	6486325.87

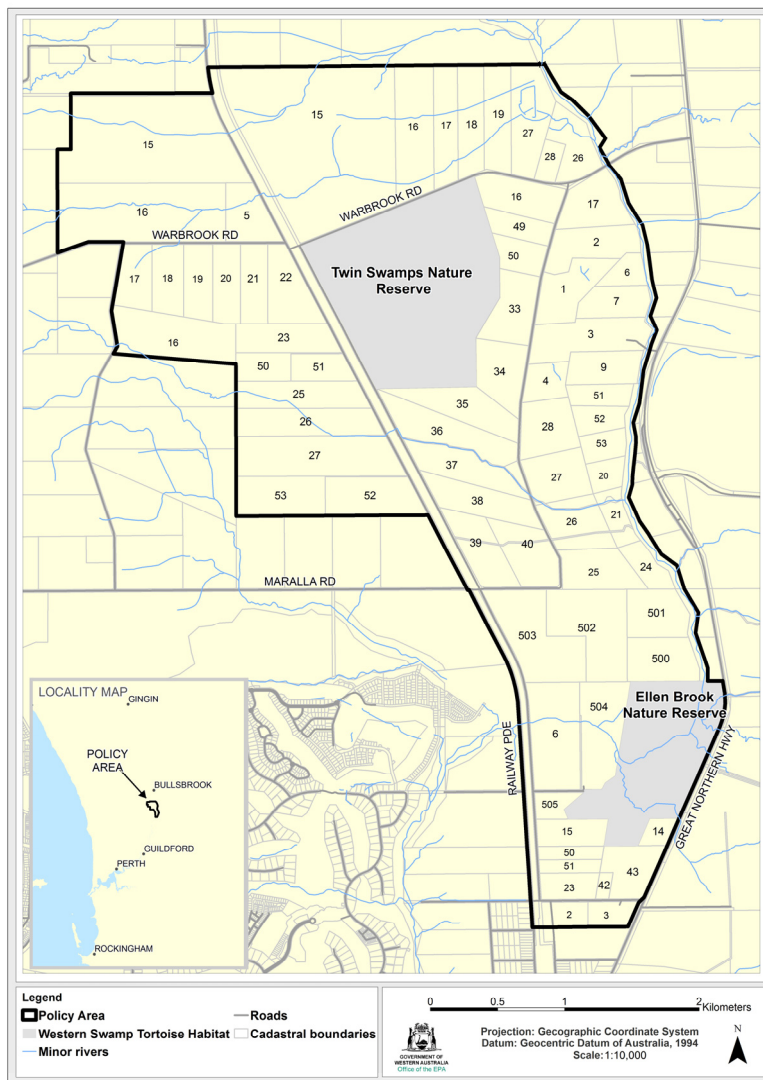
Note: These coordinates refer to Map Grid of Australia 1994 grid coordinates in Zone 50 of the Universal Transverse Mercator Grid System based on the Geocentric Datum of Australia.

**Environmental Protection (Western Swamp Tortoise Habitat) Policy
Approval Order 2011**

Representation of map **Schedule 2**

Schedule 2 — Representation of map

[cl.4(2)]



BILL MARMION, Minister for Environment.