



## 11. Conservation reserves

Conservation reserves, comprising national parks, conservation parks and nature reserves, account for approximately 6% of Western Australia's land area. Many of these reserves contain some of the State's most significant natural and cultural heritage assets.

This Fact Sheet examines the different types of conservation reserves, and the controls that apply to their management.

For information on management of marine reserves, see **Fact Sheet 17: Marine reserves**, for State forests, see **Fact Sheet 10: State forests and timber reserves** and for Crown land and other types of reserves, **Fact Sheet 12: Crown land management**.



### What are "conservation reserves"?

For the purpose of this fact sheet, "conservation reserves" means any Crown land set aside for the protection and conservation of biodiversity and related natural or cultural heritage values. It does not include private land set aside for conservation purposes under a conservation covenant or similar instrument (see **Fact Sheet 14: Voluntary conservation measures**).



### What different types of conservation reserve exist?

There are essentially two different types of conservation reserve: those managed by the Department of Conservation and Land Management (CALM), and those that are managed by other bodies.

#### CALM managed conservation reserves

The majority of conservation reserves are managed by CALM under the *Conservation and Land Management Act 1984*. Under that Act, land is vested in the Conservation Commission of Western Australia and set aside as either a national park, conservation park or nature reserve. CALM can also manage other land for conservation purposes, including some parts of "regional parks" within the Perth metropolitan area.

#### Other conservation reserves

In addition to CALM managed land, conservation reserves can also be created and vested in other bodies. These include class A reserves created under the *Land Administration Act 1997* such as Kings Park, Bold Park and Rottne Island.

Other types of conservation reserves include soil conservation reserves created under the *Soil and Land Conservation Act 1945* and conservation reserves under the management of a local government.



### How are CALM managed conservation reserves created?

Like most other types of reserves, conservation reserves are created by an order of the Minister for Lands under the *Land Administration Act*. This order will indicate the purpose of the reserve (for example, the conservation of flora and fauna). Before creating a reserve, the Minister is required to consult with the local government within the district where the reserve is located unless it is impracticable to do so. The Minister may also designate a conservation reserve as a class A reserve, which carries with it additional controls. For information on the creation and management of reserves generally, refer to **Fact Sheet 12: Crown land management**.

#### Important disclaimer:

This Fact Sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this Fact Sheet.



## Can a CALM managed conservation reserve be altered or cancelled?

The rules for altering or canceling a CALM managed conservation reserve are generally more stringent than for other types of reserve. This is particularly so for national parks, conservation parks and class A nature reserves.

### Conservation parks, national parks and class A nature reserves

A change in the purpose of a conservation park, national park or class A nature reserve can only be approved through an Act of Parliament.

In addition, a proposal to excise land from a conservation park, national park or class A nature reserve to create a road must be laid before each House of Parliament and is subject to disallowance. Before exercising this power, the Minister for Lands must give a minimum of 30 days public notice of the proposal in a newspaper circulating throughout the State.

The following minor alterations to the boundaries of a conservation park, national park or class A nature reserve can be approved by the Minister for the Environment without the matter being referred to Parliament:

- (a) adding Crown land to the reserve;
- (b) amending the reserve for the purpose of correcting one or more unsurveyed boundaries *provided* that any reduction in area is not more than 5%;
- (c) excising 5% or one hectare, whichever is the less, of the area of the reserve for the purpose of public utility services (e.g. drainage, gas, power, telecommunications, water and sewerage);
- (d) re-describing locations or lots in the reserve *provided* the external boundaries of the reserve remain unchanged; or
- (e) amalgamating two or more such reserves which have similar purposes and the same management body.

Before exercising this power, the Minister for the Environment must give a minimum of 30 days public notice in a newspaper circulating throughout the State.

### Other CALM-managed conservation reserves

All other CALM-managed conservation reserves may be altered or cancelled by an Order of the Governor on the recommendation of the Minister for the Environment. Before the Governor can make such an order, the Minister for the Environment must:

- refer the proposal to the Conservation Commission and (if the reserve is within the Swan River management area) the Swan River Trust for comment; and
- obtain the consent for the proposal from the Minister for Lands.



## How are CALM conservation reserves managed?

### If there is a management plan in place

Where a management plan is in place for a national park, conservation park or nature reserve, CALM must manage the land in accordance with that plan.

### If there is no management plan in place

Where there is no plan in place, CALM must manage the land in accordance with the general principles set out in the *Conservation and Land Management Act* relevant to the classification of the reserve. These general controls are as follows:

#### Nature reserves

If there is no management plan for a nature reserve, it must be managed to ensure that only “necessary operations” are undertaken. “Necessary operations” means operations that are necessary for the preservation or protection of persons, property, land, waters, flora or fauna, or for the preparation of a management plan.

#### National parks and conservation parks

Where there is no management plan for a national park or conservation park, it must be managed to ensure that only “compatible operations” are undertaken. “Compatible operations” means:

- operations that are necessary for the preservation or protection of persons, property, land, waters, flora or fauna, or for the preparation of a management plan; or
- operations approved by the Minister as being compatible with the purposes for which the reserve is managed.

Before the Minister can approve an operation within a national park or conservation park, the proposal must be advertised in the *Government Gazette*; in two issues of a daily newspaper circulating throughout the State and in two issues of a local newspaper circulating within the area in which the land is situated.

### Other types of CALM managed reserve

Where the conservation reserve is not a national park, nature reserve or conservation park, in the absence of a management plan that reserve must be managed to achieve the purpose for which the land was vested in the Conservation Commission.



## What activities can be undertaken in a CALM managed conservation reserve?

### Access

As a general rule, a person may lawfully enter any publicly accessible area within a CALM managed conservation reserve, subject to paying any applicable entry fees. However, access may be restricted in the following ways:

- Minister for the Environment may restrict access to a conservation reserve by issuing a notice declaring that area (or part of that area) to be a:
  - o wilderness area – access by vehicle, powered vessel or animal is prohibited without approval;
  - o prohibited area – all entry prohibited without approval;
  - o limited access area – entry permitted by foot only;
  - o temporary control area – all entry prohibited without approval;
  - o such other class of area necessary to give effect to the objects of the Act (for example, a disease control area);
- an area declared by the Governor on the advice of the Minister for the Environment as a disease risk area;
- areas set aside for CALM operations (such as depots, residences etc);
- any cave within a conservation reserve, except where the person has a permit;
- any area declared by the Executive Director to be closed for the protection, management and control of the reserve.

### Access by vehicles

It is an offence to use a vehicle on a CALM managed conservation reserve unless the vehicle is on a made road, and that road is not closed to traffic under one of the notices mentioned above, or by a gate or sign stating that access is restricted. It is also an offence to use an off-road vehicle (such as a trail bike) on a conservation reserve without a permit under the *Control of Vehicles (Off-road Areas) Act 1978*.

### Access by animals

As a general rule it is an offence to bring an animal onto a CALM managed conservation reserve. A person may bring a horse or dog onto a “designated area” within a conservation reserve. A “designated area” can be declared by the Executive Director of CALM publishing a notice in the *Government Gazette*. It is also a specific offence for a person to graze cattle within a conservation reserve.

### Camping; lighting fires

Camping within CALM managed conservation reserves is only permitted within designated camping areas. Camping fees are payable at camping sites where signs have been erected to that effect. It is also an offence to light a campfire (or any other type of fire) where flora or forest produce is in danger of being burnt.

### Draining water into or from a conservation reserve

It is an offence to drain water from or divert water onto a CALM managed conservation reserve without approval. Draining or pumping water for salinity control purposes may also be subject to other laws. For further information, refer to **Fact Sheet 35: Drainage of agricultural land**.

## Licences to take flora, fauna and other things

A person taking anything from a CALM managed conservation reserve without authority will be subject to the normal laws that apply to that act, such as unlawfully taking flora or fauna under the *Wildlife Conservation Act* and the *Conservation and Land Management Act*. Maximum fines of up to \$10,000 apply. See [Fact Sheet 8: Biodiversity conservation in Western Australia](#).

Subject to obtaining the approval of the Minister and the Commission, the Executive Director of CALM may grant a licence permitting a person to take or remove certain things (such as honey or taking trees as part of “essential works” (for example, roads or firebreaks)) from national parks, conservation parks and nature reserves.

## Mining

There are a number of restrictions on mining activities within CALM managed conservation reserves, including:

- a mining lease or general purpose lease cannot be granted over a national park or class A nature reserve without the consent of both Houses of Parliament;
- mining can only be commenced in a national park or class A nature reserve with the approval of the Minister for Mines and the Minister for the Environment;
- for conservation parks and non-class A nature reserves, mining can be carried out on the approval of the Minister for Mines after receiving the recommendations of the Minister for the Environment and the Conservation Commission.

For further information on mining in conservation reserves and other land, refer to [Fact Sheet 36: Mining law](#).

## Other restrictions within CALM managed conservation reserves

Under the *Conservation and Land Management Regulations 2002*, a person must not do any of the following things on a conservation reserve without approval:

- plant, cultivate or abandon any plant;
- remove any native flora, except firewood for camping or recreational purposes in designated areas;
- place litter or other material on a reserve;
- remove any naturally occurring feature (such as a fossil, marine shells, stromatolites etc);
- abseil or sand-board down any slope; and
- erect any structure or building.

Penalties for these offences can be up to \$4,000 and six months imprisonment. CALM officers also have power to seize property reasonably suspected as having been used in commission of an offence.



## Legal controls applying to non-CALM conservation reserves

### Local government conservation reserves

Local government may be responsible for managing land that is set aside for conservation purposes. This may include reserves along watercourses and park and recreation reserves.

A local government must manage reserves under its control in accordance with the purpose, management order and any relevant management plan applying to the reserve. For further information on management of reserves, refer to [Fact Sheet 12: Crown land management](#).

Unless the management order expressly states otherwise, a local government may undertake a range of activities on a reserve under its management, including:

- clear, level or drain the reserve;
- make improvements;
- grant licences for the depasturing of animals on the reserve; and
- grant licences for the removal of any sand, gravel, or other earth or mineral, and for cutting and removing wood for a fee.

A local government must not grant a licence to run stock or remove things from a reserve without the approval of the Minister for Lands. Note also that other laws may apply to the management of the reserve, such as laws relating to the protection of native vegetation, environmental protection legislation, and laws relating to native flora and fauna.

### Rottnest Island

Rottnest Island is set aside as a class A reserve for the purpose of “public recreation”. As a class A reserve, a proposal to alter this purpose must be laid before both Houses of Parliament, and is subject to disallowance by either House. For more information on the process for amending or altering class A reserves, refer to [Fact Sheet 12: Crown land management](#).

The management of Rottnest Island is vested with the Rottnest Island Authority. Under the *Rottnest Island Authority Act 1987*, the Island is to be managed in accordance with a management plan approved by the Minister for Tourism. The public is consulted during the preparation of the management plan. Restrictions applying on Rottnest Island include controls on taking flora and fauna, feeding fauna, and interfering with rocks and other fossil features.

### Kings Park and Bold Park

Both these Parks are under the management of the Botanic Gardens and Parks Authority. Like Rottnest Island, both Kings Park and Bold Park are a class A reserves. The Authority is required to prepare and manage the land in accordance with a management plan approved by the Minister for the Environment. There are opportunities for public input into the preparation of management plans for these reserves.

### Soil conservation reserves

The Governor may declare Crown land to be a soil conservation reserve under the *Soil and Land Conservation Act 1945*. Soil conservation reserves are created for the purpose of preventing land degradation and promoting soil conservation, and are under the management of the Minister for Agriculture. Restrictions apply to lighting fires and running stock.

### Regional parks

There are eight regional parks located in the Perth metropolitan area. Examples include the Darling Range and Yellagonga Regional Parks. Despite their name, regional parks have no special legal status. They generally comprise a number of different land tenures managed by a range of different public authorities. Whilst CALM is (as a matter of policy) responsible for coordinating the management of the different land tenures comprising each park, the individual management responsibility remains with the relevant management body.

As part of its over-arching management role, CALM is preparing management plans for each park. Once implemented, the management plan will provide a consistent basis by which the land will be managed. To date, only one management plan has been finalised – for the Canning Regional Park.

Changes to the purpose or boundary of a regional park will be governed by the type of reserve which comprises the park. If the reserve is a national park or conservation reserve, the special procedures noted above will apply. For other types of reserve, the general procedures in the *Land Administration Act* are likely to apply. For more information on the management of reserves generally, see [Fact Sheet 12: Crown land management](#).



### Other controls

There are a number of other laws relating to the protection of the environment which impact on the management of conservation reserves. These laws are considered in other fact sheets, and include:

- **planning controls** – many local town planning schemes require a person to obtain approval before commencing a development on a reserve (see [Fact Sheet 3: Planning laws](#) and [Fact Sheet 4: Development controls](#));
- **clearing native vegetation** – removal of native vegetation from conservation reserves may require a permit from the Department of Environmental Protection under changes proposed for the *Environmental Protection Act* (see [Fact Sheet 7: Clearing native vegetation](#));
- **protection of native flora and fauna** – plants and animals native to Western Australia are protected on all conservation reserves (see [Fact Sheet 8: Biodiversity protection in Western Australia](#)); and
- **making tracks, erecting structures, running stock etc** – general controls on interfering with Crown land are contained in the *Land Administration Act* (see [Fact Sheet 12: Crown land management](#)).

## How can you become involved?

### Report potentially illegal conduct

If you are concerned that unlawful activity is being undertaken on a conservation reserve, report the matter to the nearest CALM office or the body responsible for that reserve. Potentially illegal clearing should be reported to the Department of Environmental Protection.

### Management of reserves

To ensure conservation reserves are managed appropriately, you can undertake the following steps:

1. obtain a copy of the Crown title for the land, the management order and any applicable management plan from the DPI or the management body to ascertain the purpose of the reserve;
2. liaise with the management body (e.g. CALM) to ensure the reserve is being managed in accordance with its purpose;
3. encourage CALM or the other relevant management body to develop management plans for reserves under its control;
4. report illegal activity on that reserve to the management body or an appropriate government body;
5. monitor newspapers for proposals to change the boundaries or purposes of national parks, conservation reserves and class A nature reserves;
6. monitor CALM's webpage for information on management of conservation reserves;
7. encourage your local members of Parliament to keep you informed of proposals to amend the boundaries of class A reserves, national parks or conservation parks.

## Contacts and further information

Department of Conservation and Land Management, Kensington

Tel: (08) 9334 0333

Department of Environmental Protection, Perth

Tel: (08) 9222 7000

Department of Planning and Infrastructure, Perth

Tel: (08) 9264 7777

For copies of legislation considered in this fact sheet, contact the State Law Publisher

Tel: (08) 9321 7688

## The Environmental Defender's Office WA (Inc)

The Environmental Defender's Office WA (EDO) is a community legal centre specialising in public interest environmental law.

The objects of the EDO include:

- ◆ to provide community groups and individuals with legal advice and representation to help protect the environment;
- ◆ to promote law reform that improves environmental protection; and
- ◆ to provide community education about environmental law.

The EDO is a non-profit, non-government organisation. The EDO receives its principal funding from the Federal Attorney-General's Department. However, these funds are limited and donations from the public provide a vital source of funds for many of our activities. Donations over \$2 are fully tax deductible. The EDO also welcomes people with a commitment to the environment to join as members.

If you require legal advice on an environmental issue or wish to find out more about the EDO, please contact us at the following address:

Environmental Defender's Office WA (Inc)  
Second Floor, Kings New Office Tower  
533 Hay Street, PERTH WA 6000

Tel: (08) 9221 3030 Fax: (08) 9221 3070

Email: edowa@edo.org.au Web: www.edo.org.au/edowa

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