

Conservation and Land Management Amendment Bill 2015

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Western Australia

LEGISLATIVE ASSEMBLY

**Conservation and Land Management
Amendment Bill 2015**

A Bill for

**An Act to amend the *Conservation and Land Management Act 1984*
and to consequentially amend other Acts.**

The Parliament of Western Australia enacts as follows:

1
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Part 1 — Preliminary

1. Short title

This is the *Conservation and Land Management Amendment Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**Part 2 — Conservation and Land Management
Act 1984 amended**

3. Act amended

This Part amends the *Conservation and Land Management Act 1984*.

4. Long title amended

In the long title delete “**to establish authorities to be responsible therefor,**” and insert:

to establish the Conservation and Parks Commission,

5. Section 3 amended

(1) In section 3 delete the definitions of:

associated body

Conservation Commission

Marine Authority

Marine Committee

member

(2) In section 3 insert in alphabetical order:

Aboriginal body corporate means a corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Commonwealth);

Commission means the Conservation and Parks Commission established by section 18;

joint responsible body means each person or body that, jointly with the Commission —

(a) is vested with land, or land and waters; or

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- 1 (b) has the care, control and management of land,
2 or land and waters;
- 3 **member** means a member of the Commission;
- 4 **public road** means a road as defined —
- 5 (a) if the *Road Traffic Act 1974* section 5(1) is in
6 operation, in that section; or
- 7 (b) otherwise, in the *Road Traffic (Administration)*
8 *Act 2008* section 4;
- 9 **public utility works** means —
- 10 (a) drainage, electricity, gas, sewerage, telephone
11 and water services and any other services
12 prescribed for the purposes of this definition;
13 and
- 14 (b) navigational aids; and
- 15 (c) wharves, piers, jetties and bridges; and
- 16 (d) break-waters, slips, vessel launch ramps and
17 associated works; and
- 18 (e) widening or realignment of public roads; and
- 19 (f) any other works prescribed for the purposes of
20 this definition;
- 21 **regional park** means an area recognised under
22 section 8E as a regional park;
- 23 **vessel** has the meaning given in the *Western Australian*
24 *Marine Act 1982* section 3(1);
25

26 **6. Section 4 amended**

27 In section 4(1) after “96,” insert:

28
29 121
30

1 **7. Section 5 amended**

2 In section 5(1):

3 (a) delete paragraph (g) and insert:

4

5 (g) any other land reserved under the *Land*
6 *Act 1933* and vested under a written law in the
7 Commission; and

8

9 (b) in paragraph (h) delete “Conservation Commission or
10 the Marine Authority, whether solely or jointly with
11 another person.” and insert:

12

13 Commission or the Executive Body, either solely or
14 jointly with another person or persons.

15

16 **8. Section 6 amended**

17 (1) In section 6(3):

18 (a) after paragraph (a) insert:

19

20 (ba) are lands referred to in paragraph (a) that
21 become vested in the Commission jointly with
22 an Aboriginal body corporate under
23 section 8AA(5); or

24

25 (b) in paragraph (b) delete “Conservation Commission by
26 section 7(2); or” and insert:

27

28 Commission by section 7(2) or 8AA(8), or in the
29 Commission jointly with an Aboriginal body corporate
30 under section 8AA(4) or (5); or

31

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- 1 (c) in paragraph (c) delete “Conservation Commission.” and
2 insert:
3
4 Commission, either solely or jointly with an Aboriginal
5 body corporate.
6
- 7 (2) Delete section 6(4) and insert:
8
- 9 (4) Conservation parks, for the purposes of this Act,
10 comprise all lands that —
11 (a) are reserved under the *Land Act 1933* Part III,
12 or the *Land Administration Act 1997* Part 4, for
13 the purpose of a conservation park and vested
14 in the Commission under section 7(2a) or
15 8AA(8), or in the Commission jointly with an
16 Aboriginal body corporate under
17 section 8AA(4) or (5); or
18 (b) under any other Act become reserved for the
19 purpose of a conservation park and vested in
20 the Commission, either solely or jointly with an
21 Aboriginal body corporate.
22
- 23 (3) In section 6(5):
24 (a) delete paragraph (a) and insert:
25
26 (a) by section 7(4), are vested in the Commission,
27 either solely or jointly with some other body or
28 bodies; or
29

- 1 (b) in paragraph (b) delete “Conservation Commission by
2 section 7(2); or” and insert:
3
4 Commission by section 7(2) or 8AA(8), or in the
5 Commission jointly with an Aboriginal body corporate
6 under section 8AA(4) or (5); or
7
- 8 (c) in paragraph (c) delete “Conservation Commission.” and
9 insert:
10
11 Commission, either solely or jointly with an Aboriginal
12 body corporate.
13
- 14 **9. Section 7 amended**
- 15 (1) Delete section 7(1) and insert:
16
- 17 (1A) In this section, unless the contrary intention appears —
18 *vested* has the meaning assigned to it by section 19(3).
- 19 (1B) This section does not apply to —
20 (a) land that is vested under section 8AA(4) or (5);
21 or
22 (b) section 8A land.
- 23 (1) The following lands and waters are by this subsection
24 vested in the Commission —
25 (a) State forest;
26 (b) timber reserves;
27 (c) marine management areas;
28 (d) marine nature reserves;
29 (e) marine parks.
30

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1 (2) Delete section 7(5) and (6).

2 **10. Section 8AA inserted**

3 After section 7 insert:

4

5 **8AA. Land may be vested jointly in Commission and**
6 **Aboriginal body corporate**

7 (1) In this section —

8 *vested* has the meaning assigned to it by section 19(3).

9 (2) The Minister, after consultation with the Commission,
10 may make a written determination that —

11 (a) land that is proposed to be a national park,
12 nature reserve or conservation park, or part of a
13 national park, nature reserve or conservation
14 park, is, when reserved under the *Land*
15 *Administration Act 1997* Part 4, to be vested
16 jointly in the Commission and a specified
17 Aboriginal body corporate; or

18 (b) a national park, nature reserve or conservation
19 park, or part of a national park, nature reserve
20 or conservation park that is vested solely in the
21 Commission, is to be vested jointly in the
22 Commission and a specified Aboriginal body
23 corporate.

24 (3) The Minister must not make a determination under
25 subsection (2) unless the Aboriginal body corporate has
26 consented to the joint vesting.

27 (4) Land in respect of which a determination is made under
28 subsection (2)(a) is, when reserved under the *Land*
29 *Administration Act 1997* Part 4, by this subsection
30 vested jointly in the Commission and the Aboriginal
31 body corporate.

- 1 (5) Land in respect of which a determination is made under
2 subsection (2)(b) is, on and from the date of the
3 determination or a later date that is specified in the
4 determination, by this subsection vested jointly in the
5 Commission and the Aboriginal body corporate.
- 6 (6) Action under subsection (5) does not change —
7 (a) the purpose for which the land is reserved
8 under the *Land Administration Act 1997*; or
9 (b) the category of the land under this Act.
- 10 (7) In the case of land that is vested jointly in the
11 Commission and an Aboriginal body corporate under
12 subsection (4) or (5) the functions of the Aboriginal
13 body corporate in relation to the land are limited to
14 those conferred on a joint responsible body by this Act.
- 15 (8) If an Aboriginal body corporate in which land is vested
16 under this section is deregistered under the
17 *Corporations (Aboriginal and Torres Strait Islander)*
18 *Act 2006* (Commonwealth) Part 12-1 or 12-2, the land
19 ceases to be vested in the Aboriginal body corporate
20 and by this section vests solely in the Commission.
- 21 (9) The Minister may revoke or amend a determination
22 made under subsection (2) at any time before the
23 vesting under subsection (4) or (5) of the land in
24 respect of which the determination is made.
25

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1 **11. Part II Division 2A inserted**

2 After Part II Division 1 insert:

3

4 **Division 2A — Regional parks**

5 **8D. Terms used**

6 In this Division —

7 *alienated land* has the meaning given in the *Land*
8 *Administration Act 1997* section 3(1);

9 *Crown land* has the meaning given in the *Land*
10 *Administration Act 1997* section 3(1);

11 *eligible land* means land, waters, or land and waters,
12 that are above the low water mark and are —

- 13 (a) alienated land; or
14 (b) Crown land unless it is land to which this Act
15 applies or section 8A land;

16 *Minister for Planning* means the Minister
17 administering the *Planning and Development Act 2005*;

18 *person responsible*, for eligible land, means —

- 19 (a) if the land is alienated land, each of these
20 persons —
21 (i) the owner;
22 (ii) any person who has an interest in the
23 land that is registered under the *Transfer*
24 *of Land Act 1893* or the *Registration of*
25 *Deeds Act 1856*;
26 (iii) the lessee, if any, of the land;
27 (b) if the land is Crown land, each of these
28 persons —
29 (i) the Land Administration Minister;

- 1 (ii) the management body (as defined in the
2 *Land Administration Act 1997*
3 section 3(1)), if any, of the land under
4 that Act;
- 5 (iii) the person, if any, in whom the land is
6 vested under a written law other than
7 the *Land Administration Act 1997*;
- 8 (iv) the person, if any, who has the control
9 and management of the land under a
10 written law other than the *Land*
11 *Administration Act 1997*;
- 12 (v) the lessee, if any, of the land;
- 13 (vi) if exclusive native title has been
14 determined under the NT Act to exist in
15 relation to the land, the registered native
16 title body corporate (as defined in the
17 NT Act section 253) in respect of the
18 native title rights and interests
19 concerned.

20 **8E. Recognition of regional parks**

- 21 (1) The Minister, with the concurrence of the Minister for
22 Planning, may by order published in the *Gazette*
23 recognise as a regional park for the purposes of
24 section 8F an area of land that the Minister considers to
25 have regionally significant conservation, landscape
26 protection or recreation values.
- 27 (2) The area may include any or all of the following
28 categories of land —
- 29 (a) eligible land;
- 30 (b) land to which this Act applies;
- 31 (c) section 8A land.
- 32 (3) The Minister must not include an area of eligible land
33 in an area recognised as a regional park unless each

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1 person responsible for that area of eligible land has
2 given written consent.

3 **8F. CEO may coordinate management of regional**
4 **parks**

5 (1) The CEO may coordinate the management of a
6 regional park.

7 (2) For the purposes of subsection (1), the Commission
8 may through the agency of the CEO prepare a plan of
9 management for the regional park.
10

11 **12. Section 9 replaced**

12 Delete section 9 and insert:
13

14 **9. Changes to State forest**

15 (1) Land ceases to be State forest only by virtue of an Act
16 or in the manner provided for in subsection (3) or
17 section 10A.

18 (2) The purpose, or combination of purposes, notified in
19 respect of a State forest under section 60(3)(a) or 60A
20 cannot be amended except by virtue of an Act or in the
21 manner provided for in section 10A.

22 (3) The Minister, after consultation with the Commission
23 and the Minister for Forest Products, may by order —

24 (a) amend a State forest for the purpose of
25 correcting one or more unsurveyed boundaries
26 of the State forest in such a manner that the
27 area of the State forest, if reduced at all, is
28 reduced by not more than 5%; or

29 (b) excise 5% or 5 hectares, whichever is the less,
30 of the area of the State forest for the purpose of
31 public utility works or roads; or

- 1 (c) redescribe locations or lots, or adjust the areas
2 of locations or lots, in a State forest if the
3 external boundaries of the State forest remain
4 unchanged; or
- 5 (d) amalgamate 2 or more State forests which have
6 similar purposes notified under section 60(3)(a)
7 or 60A.
- 8 (4) The Minister must, not less than 30 days before acting
9 under subsection (3) or section 10A in relation to a
10 State forest, advertise the intention to so act —
- 11 (a) in a newspaper circulating throughout the State;
12 or
- 13 (b) on the Department’s website.
- 14 (5) On the making of an order under subsection (3)(a) or
15 (b) excising land from a State forest, the excised land
16 ceases to be State forest and becomes Crown land
17 within the meaning of the *Land Administration*
18 Act 1997.
- 19 **10A. Parliamentary procedure in relation to changes to**
20 **State forest**
- 21 (1) The Governor may cause to be laid before each House
22 of Parliament a proposal that —
- 23 (a) land comprising the whole or part of a State
24 forest is to cease to be State forest; or
- 25 (b) the purpose, or combination of purposes,
26 notified in respect of a State forest under
27 section 60(3)(a) or 60A be amended.
- 28 (2) Either House of Parliament may, by resolution of
29 which notice has been given within 14 sitting days of
30 that House after a proposal has been laid before it
31 under subsection (1), pass a resolution disallowing the
32 proposal.

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- 1 (3) If a proposal is disallowed under subsection (2), the
2 proposal lapses.
- 3 (4) As soon as a proposal is no longer subject to
4 disallowance under subsection (2), the proposal may be
5 implemented by order of the Governor published in the
6 *Gazette*.
- 7 (5) It does not matter whether or not the period of
8 14 sitting days referred to in subsection (2) or some of
9 them occur during —
10 (a) the same session of Parliament; or
11 (b) the same Parliament,
12 as that in which the relevant proposal is laid before the
13 House of Parliament concerned.
- 14 (6) If the notice of a resolution referred to in subsection (2)
15 is given to a House and that resolution is not lost but,
16 before the period of 14 sitting days mentioned in
17 subsection (2) expires, Parliament is prorogued or that
18 House is dissolved or expires —
19 (a) the relevant proposal does not lapse but, subject
20 to paragraph (b)(iii), it cannot be implemented;
21 and
22 (b) on the commencement of the next session of
23 Parliament —
24 (i) the Minister may cause the proposal to
25 be laid before that House again; and
26 (ii) notice of a resolution disallowing the
27 proposal may be given again in that
28 House; and
29 (iii) subsection (2) applies again but as if the
30 references in subsection (2) to the
31 period of 14 sitting days after the
32 proposal was laid were references to the
33 remaining sitting days after notice of a

- 1 resolution disallowing the proposal is
2 given under subparagraph (ii).
- 3 (7) On the publication in the *Gazette* under subsection (4)
4 of an order declaring that land ceases to be State forest,
5 the land —
- 6 (a) in the case of land acquired under section 15
7 and set apart as a State forest, becomes vested
8 in the Executive Body and section 131 applies
9 to it; and
- 10 (b) in any other case, becomes Crown land within
11 the meaning of the *Land Administration*
12 *Act 1997*.

13

14 **13. Section 10 replaced**

15 Delete section 10 and insert:

16

17 **10. Reservation of, and changes to, timber reserves**

- 18 (1) The Governor may, by order published in the *Gazette*,
19 reserve any Crown land as a timber reserve.
- 20 (2) The area of a timber reserve reserved by order under
21 subsection (1) cannot be reduced other than in the
22 manner provided for in subsection (3) or under
23 section 17.
- 24 (3) The Minister, after consultation with the Commission
25 and the Minister for Forest Products, may by order —
- 26 (a) amend a timber reserve for the purpose of
27 correcting one or more unsurveyed boundaries
28 of the reserve in such a manner that the area of
29 the land, if reduced at all, is reduced by not
30 more than 5%; or

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- 1 (b) excise 5% or 5 hectares, whichever is the less,
2 of the area of the timber reserve for the purpose
3 of public utility works or roads; or
- 4 (c) redescribe locations or lots, or adjust the areas
5 of locations or lots, in the timber reserve if the
6 external boundaries of the land remain
7 unchanged; or
- 8 (d) amalgamate 2 or more timber reserves.
- 9 (4) The Minister must, not less than 30 days before acting
10 under subsection (3) in relation to a timber reserve,
11 advertise the intention to so act —
- 12 (a) in a newspaper circulating throughout the State;
13 or
- 14 (b) on the Department's website.
15

16 **14. Section 13 amended**

17 Delete section 13(1), (3a) and (4) and insert:

- 18
- 19 (1) Subject to section 14, the Governor may, by order
20 published in the *Gazette* —
- 21 (a) reserve any part of Western Australian waters
22 as a marine nature reserve, a marine park or a
23 marine management area; or
- 24 (b) add any part of Western Australian waters to a
25 marine nature reserve, a marine park or a
26 marine management area.
- 27 (2) The Minister may by order published in the *Gazette* —
- 28 (a) amalgamate 2 or more marine nature reserves;
29 (b) amalgamate 2 or more marine parks;
30 (c) amalgamate 2 or more marine management
31 areas.

- 1 (3) The Minister must consult the Swan River Trust
2 established by the *Swan and Canning Rivers*
3 *Management Act 2006* before the Governor acts under
4 subsection (1) in relation to any waters that are in the
5 development control area or the Riverpark within the
6 meaning of that Act.
- 7 (4) Subject to subsection (4a), the Governor may by the
8 order under subsection (1) which constitutes a marine
9 nature reserve, a marine park or a marine management
10 area, or by a subsequent order published in the *Gazette*,
11 classify the reserve, park or management area as of
12 Class A.
- 13 (4AA) Except as provided in this section, section 13AA or by
14 an Act —
- 15 (a) the purpose of a marine nature reserve, a
16 marine park or a marine management area
17 classified as of Class A cannot be changed; and
- 18 (b) the boundaries of a marine nature reserve, a
19 marine park or a marine management area
20 classified as of Class A cannot be altered.
- 21

22 **15. Section 13AA inserted**

23 After section 13 insert:
24

25 **13AA. Minister's powers to change Class A marine reserve**

- 26 (1) In this section —
- 27 ***Class A marine reserve*** means a marine nature reserve,
28 a marine park or marine management area, classified
29 under section 13(4) as of Class A.

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- 1 (2) The Minister, after consultation with the Commission,
2 may by order published in the *Gazette* —
- 3 (a) amend a Class A marine reserve for the purpose
4 of correcting one or more re-surveyed or
5 previously unsurveyed boundaries of the
6 marine area; or
- 7 (b) excise 5% or one hectare, whichever is the less,
8 of the area of a Class A marine reserve for the
9 purpose of public utility works.
- 10 (3) The Minister must, not less than 30 days before acting
11 under subsection (2), advertise the intention to so
12 act —
- 13 (a) in a newspaper circulating throughout the State;
14 or
- 15 (b) on the Department's website.
16

17 **16. Section 13B amended**

- 18 (1) Before section 13B(1) insert:
19

- 20 (1A) In this section —
- 21 *classification notice* means the relevant notice under
22 section 62(1a);
- 23 *recreation area* means any land or waters in a marine
24 park classified under section 62 as a recreation area;
- 25 *sanctuary area* means any land or waters in a marine
26 park classified under section 62 as a sanctuary area;
- 27 *special purpose area* means any land or waters in a
28 marine park classified under section 62 as a special
29 purpose area.
30

- 1 (2) After section 13B(2) insert:
2
- 3 (3A) The Minister may in a classification notice classifying
4 land or waters in a marine park as a recreation area
5 declare the recreation area, or any part of the recreation
6 area, to be an area where —
7 (a) recreational fishing; or
8 (b) recreational fishing of a type or class specified
9 in the declaration,
- 10 would be incompatible with another recreational
11 purpose specified in the classification notice.
- 12 (3B) The Minister may in a classification notice classifying
13 land or waters in a marine park as a special purpose
14 area declare the special purpose area, or any part of the
15 special purpose area, to be an area where one or more
16 of the following, as specified in the declaration, would
17 be incompatible with a conservation purpose specified
18 in the classification notice —
19 (a) aquaculture;
20 (b) commercial fishing;
21 (c) commercial fishing of a type or class specified
22 in the declaration;
23 (d) recreational fishing;
24 (e) recreational fishing of a type or class specified
25 in the declaration;
26 (f) pearling activity;
27 (g) exploratory drilling for, or production of,
28 petroleum, geothermal energy resources or
29 geothermal energy under the *Petroleum and*
30 *Geothermal Energy Resources Act 1967* or
31 petroleum under the *Petroleum (Submerged*
32 *Lands) Act 1982*.
33

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- 1 (3) In section 13B(5) delete “carried out in any area of a marine
2 park which is classified under section 62 as —” and insert:
3
4 carried out in —
5
- 6 (4) Delete section 13B(6) and (7) and insert:
7
- 8 (6A) Subject to section 13D —
- 9 (a) commercial fishing shall not be carried out
10 in —
- 11 (i) a sanctuary area; or
12 (ii) a recreation area; or
13 (iii) a special purpose area to which, or part
14 of a special purpose area to which, a
15 declaration under subsection (3B)(b)
16 applies;
- 17 and
- 18 (b) commercial fishing of a type or class specified
19 in a declaration made under subsection (3B)(c)
20 shall not be carried out in a special purpose area
21 to which, or part of a special purpose area to
22 which, the declaration applies.
- 23 (6) Commercial fishing may be carried out in accordance
24 with an authorisation issued under the *Fish Resources*
25 *Management Act 1994* in any area, or part of an area,
26 of a marine park other than —
- 27 (a) an area, or part of an area, mentioned in
28 subsection (6A)(a)(i), (ii) or (iii); and
- 29 (b) if the commercial fishing is of a type or class
30 specified in a declaration made under
31 subsection (3B)(c), a special purpose area, or

- 1 part of a special purpose area, to which the
2 declaration applies.
- 3 (7A) Subject to section 13D —
- 4 (a) recreational fishing shall not be carried out
5 in —
- 6 (i) a sanctuary area; or
7 (ii) a recreation area to which, or part of a
8 recreation area to which, a declaration
9 under subsection (3A)(a) applies; or
10 (iii) a special purpose area to which, or a
11 part of a special purpose area to which,
12 a declaration under subsection (3B)(d)
13 applies;
- 14 and
- 15 (b) recreational fishing of a type or class specified
16 in a declaration made under subsection (3A)(b)
17 shall not be carried out in a recreation area to
18 which, or part of a recreation area to which, the
19 declaration applies; and
- 20 (c) recreational fishing of a type or class specified
21 in a declaration made under subsection (3B)(e)
22 shall not be carried out in a special purpose area
23 to which, or part of a special purpose area to
24 which, the declaration applies.
- 25 (7) Recreational fishing may be carried out in accordance
26 with the requirements of the *Fish Resources*
27 *Management Act 1994* in any area, or part of an area,
28 of a marine park other than —
- 29 (a) an area, or part of an area, mentioned in
30 subsection (7A)(a)(i), (ii) or (iii); and
- 31 (b) if the recreational fishing is of a type or class
32 specified in a declaration made under
33 subsection (3A)(b), a recreation area, or part of

s. 17

- 1 a recreation area, to which the declaration
2 applies; and
- 3 (c) if the recreational fishing is of a type or class
4 specified in a declaration made under
5 subsection (3B)(e), a special purpose area, or
6 part of a special purpose area, to which the
7 declaration applies.
8
- 9 (5) In section 13B(8) delete “carried out in any area of a marine
10 park which is classified under section 62 as —” and insert:
11
- 12 carried out in —
13
- 14 (6) In section 13B(9) delete “carried out in any area of a marine
15 park which is classified under section 62 as —” and insert:
16
- 17 carried out in —
18
- 19 (7) Delete section 13B(10).
- 20 **17. Section 14 amended**
- 21 (1) In section 14(1a)(a) delete “Marine Authority” and insert:
22
- 23 Commission
24
- 25 (2) In section 14(6)(a) delete “Marine Authority” and insert:
26
- 27 Commission
28

- 1 (3) Delete section 14(8) and insert:
2
- 3 (8) Section 60(2a) applies to the approval of an indicative
4 management plan as if the reference in that subsection
5 to the relevant responsible body were a reference to the
6 Minister.
- 7 (9A) Section 60(2b) applies to the approval of an indicative
8 management plan as if the reference in that subsection
9 to the Commission were a reference to the Minister.
10

11 **18. Section 17 amended**

- 12 (1) Delete section 17(2) and insert:
13
- 14 (2) Where it is proposed to —
15 (a) cancel or amend the purpose of any land to
16 which this section applies; or
17 (b) alter any boundary of any land to which this
18 section applies otherwise than by an addition to
19 the land or under section 10(3),
20 the Minister must refer the proposal to the Commission
21 and any joint responsible body in which the land is
22 vested or which has the care, control and management
23 of the land.
24
- 25 (2) In section 17(3) delete “Conservation Commission or Marine
26 Authority, as the case may be, and any associated body” and
27 insert:
28
- 29 Commission and any joint responsible body
30
- 31 (3) In section 17(4) delete “Conservation Commission or the
32 Marine Authority or any associated body under subsection (3),

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1 but the Conservation Commission or the Marine Authority
2 shall” and insert:

3

4 Commission or joint responsible body under subsection (3), but
5 the Commission must

6

7 (4) In section 17(4a) delete “Conservation Commission or the
8 Marine Authority.” and insert:

9

10 Commission.

11

12 **19. Part III heading replaced**

13 Delete the heading to Part III and insert:

14

15 **Part III — Conservation and Parks Commission**

16

17 **20. Part III Division 1 heading replaced**

18 Delete the heading to Part III Division 1 and insert:

19

20 **Division 1 — Conservation and Parks Commission**
21 **established**

22

23 **21. Part III Division 1 Subdivision 1 heading deleted**

24 Delete the heading to Part III Division 1 Subdivision 1.

1 **22. Section 18 amended**

2 Delete section 18(1) and insert:

3

4 (1) A body called the Conservation and Parks Commission
5 is established.

6

7 **23. Section 19 amended**

8 (1) In section 19(1):

9 (a) delete paragraph (a) and insert:

10

11 (a) to have vested in it the following —

12 (i) State forest, timber reserves and marine
13 reserves;

14 (ii) unless section 8B(2)(f) applies, national
15 parks, conservation parks and nature
16 reserves, either solely or jointly with an
17 Aboriginal body corporate;

18 (iii) relevant land referred to in
19 section 5(1)(g);

20 (ba) to have the joint function provided for by
21 section 7(4);

22

23 (b) in paragraph (b) delete “whether solely or jointly with
24 another person;” and insert:

25

26 either solely or jointly with another person or body;

27

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(c) delete paragraph (c) and insert:

(c) to advise the Minister on the development of policies —

(i) for the preservation of the natural environment of the State and the provision of facilities for the enjoyment of that environment by the community; and

(ii) for promoting the appreciation of flora and fauna and the natural environment; and

(iii) to achieve or promote the objectives referred to in section 56(1)(a) to (e) and (2);

(d) after paragraph (e) insert:

(fa) to advise the Minister in relation to proposals for reservations for the purposes of section 14;

(e) in paragraphs (f), (g) and (k) after “land” insert:

and waters

(2) In section 19(3) delete “conservation parks and nature reserves is only for the purposes of subsection (1)(c), (d), (e), (f), (g), (h), (i), (k) and (l)” and insert:

conservation parks, nature reserves and marine reserves is only for the purposes of subsection (1)(c), (d), (e), (fa), (f), (g), (h), (i), (k) and (l)

- 1 (3) In section 19(6)(a) delete “directly affected by the advice is”
2 and insert:
3
4 or waters directly affected by the advice are
5
6 (4) Delete section 19(9) and insert:
7
8 (9) The Commission must not advise the Minister on any
9 matter which relates to marine archaeology unless
10 before the advice is tendered it has informed
11 The Western Australian Museum of the general nature
12 of its proposed advice and given it a reasonable
13 opportunity to make submissions.
14

15 **24. Section 20 amended**

- 16 (1) Delete section 20(2), (3), (4) and (5).
17 (2) Delete section 20(7)(b).

18 **25. Part III Division 1 Subdivision 2 heading deleted**

19 Delete the heading to Part III Division 1 Subdivision 2.

20 **26. Part III Division 2 heading inserted**

21 Before section 21 insert:
22

23 **Division 2 — Membership and meetings of Commission**
24

25 **27. Section 21 amended**

- 26 (1) In section 21(1) delete “9” and insert:
27

28 7
29

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- 1 (2) Delete section 21(3) and (4) and insert:
2
- 3 (3) Subject to subsection (4) and section 22, the members
4 are to be persons who, in the opinion of the Minister,
5 have knowledge and experience or a particular function
6 or vocational interest which is relevant to the functions
7 of the Commission.
- 8 (4) One member is to be a person who, in the opinion of
9 the Minister, has knowledge of and experience in
10 Aboriginal cultural and Aboriginal heritage matters
11 relevant to the functions of the Commission.
12

13 **28. Section 22 amended**

14 In section 22(1):

- 15 (a) delete “Conservation Commission if” and insert:
16
17 Commission if
18
- 19 (b) delete paragraph (a) and insert:
20
21 (a) is the CEO or an officer of the Department; or
22

23 **29. Section 23 replaced**

24 Delete section 23 and insert:
25

26 **23. Other persons entitled to attend meetings of**
27 **Commission**

- 28 (1) In this section —
29 *agency* has the meaning given in the *Public Sector*
30 *Management Act 1994* section 3(1);

- 1 **chief executive officer** includes a chief employee
2 within the meaning of the *Public Sector Management*
3 *Act 1994*;
- 4 **Director** means a senior executive officer (within the
5 meaning of the *Public Sector Management Act 1994*)
6 designated by the CEO to be a Director for the
7 purposes of this section.
- 8 (2) Reasonable notice of a meeting of the Commission is
9 to be given to the following people —
- 10 (a) the CEO;
- 11 (b) if in the view of the chairman any matter
12 proposed to be put before the meeting concerns
13 the functions of a Director — the Director;
- 14 (c) if in the view of the chairman another agency is
15 concerned with a matter to be considered at the
16 meeting — the chief executive officer of the
17 agency.
- 18 (3) For the purposes of subsection (2)(b), the CEO is to
19 notify the chairman as to the functions of the Directors
20 and any changes to those functions.
- 21 (4) Subject to subsection (5) —
- 22 (a) the CEO, or the CEO's representative, is
23 entitled to attend any meeting and to take part
24 in the consideration and discussion of any
25 matter before a meeting, but cannot vote on any
26 matter; and
- 27 (b) a Director who receives notice under
28 subsection (2)(b), or that Director's
29 representative, is entitled to attend the meeting
30 to which the notice applies and to take part in
31 the consideration and discussion of any matter
32 before the meeting that concerns the functions
33 of the Director, but cannot vote on any matter;
34 and

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- 1 (c) a chief executive officer of another agency who
2 receives notice under subsection (2)(c), or that
3 chief executive officer's representative, is
4 entitled to attend the meeting to which the
5 notice applies and to take part in the
6 consideration and discussion of any matter
7 before the meeting that concerns the agency,
8 but cannot vote on any matter.
- 9 (5) The Commission may decide to exclude the persons
10 referred to in subsection (4) (but not some of them
11 only) from a meeting while it is considering —
- 12 (a) a matter that relates to the functions or actions
13 of the CEO or the Department; or
- 14 (b) a matter that relates to the functions or actions
15 of any agency in relation to management plans
16 for lands and waters vested in or under the care,
17 control and management of the Commission or
18 in the Commission jointly with another person.
19

20 **30. Part III Division 1 Subdivision 3 heading deleted**

21 Delete the heading to Part III Division 1 Subdivision 3.

22 **31. Part III Division 3 heading inserted**

23 Before section 24 insert:
24

25 **Division 3 — Relationship with Minister**
26

27 **32. Section 25 amended**

28 In section 25(4) delete the definition of *staff* and insert:
29

30 *staff* means the staff provided by the CEO under
31 section 33(1)(ba).
32

1 **33. Part III Division 1 Subdivision 4 heading deleted**
2 Delete the heading to Part III Division 1 Subdivision 4.

3 **34. Part III Division 4 heading inserted**
4 Before section 26 insert:

5

6 **Division 4 — General provisions**
7

8 **35. Section 26 replaced**
9 Delete section 26 and insert:
10

11 **26. Commission may engage consultants**

12 (1) The Commission may, with the approval of the
13 Minister, engage persons under contracts for services
14 to provide any professional, technical or other
15 assistance that the Commission considers necessary for
16 the performance of its functions under this Act.

17 (2) An approval of the Minister under subsection (1) may
18 be specific or may be given in general terms.
19

20 **36. Section 26AA amended**

21 Delete section 26AA(2) and insert:
22

23 (2) A delegation under subsection (1) may be made to —
24 (a) a member of the Commission; or
25 (b) a member of the staff of the Department
26 provided under section 33(1)(ba).
27

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1 **37. Section 26AC amended**

2 In section 26AC(1) delete “*Conservation and Land*
3 *Management Amendment Act 2000*” and insert:

4
5 *Conservation and Land Management Amendment Act 2015*
6 section 37
7

8 **38. Part III Divisions 3A and 3B deleted**

9 Delete Part III Divisions 3A and 3B.

10 **39. Part III Division 4 heading deleted**

11 Delete the heading to Part III Division 4.

12 **40. Sections 27 and 28 deleted**

13 Delete sections 27 and 28.

14 **41. Section 29 replaced**

15 Delete section 29 and insert:
16

17 **29. Constitution and proceedings of Commission**

18 Schedule 1 sets out provisions with respect to the
19 constitution and proceedings of the Commission.
20

21 **42. Section 33 amended**

22 (1) In section 33(1):

23 (a) after paragraph (a) insert:
24

25 (aa) without limiting paragraph (a), to take any
26 measures that the CEO considers necessary or
27 expedient, including planned burning, on —

28 (i) land to which this Act applies; and

- 1 (ii) subject to the relevant section 8A
2 agreement, section 8A land; and
3 (iii) subject to the relevant order made under
4 section 8C, section 8C land,
5 for the purpose of preventing, managing or
6 controlling fire on that land;
7 (ab) to coordinate the management of land in
8 regional parks;
9
10 (b) delete paragraphs (b) and (ba) and insert:
11
12 (b) to provide the Commission with such assistance
13 as it may reasonably require to perform its
14 functions;
15 (ba) without limiting paragraph (b), to provide the
16 Commission with any staff and facilities of the
17 Department that it may reasonably require to
18 perform its functions;
19
20 (2) Delete section 33(5) and insert:
21
22 (5) Nothing in subsection (1) is to be read as limiting the
23 functions of the Commission under section 19.
24
25 (3) In section 33(6) delete “to conferring” and insert:
26
27 of conferring
28

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1 **43. Section 53 amended**

2 (1) In section 53 delete the definition of *controlling body*.

3 (2) In section 53 in the definition of *responsible body* delete
4 paragraphs (a) and (b) and insert:

5

6 (a) if the land is vested in or under the care, control
7 and management of the Commission or the
8 Executive Body solely, the Commission or
9 Executive Body, as the case requires;

10 (b) if the land is vested in or under the care, control
11 and management of the Commission or the
12 Executive Body jointly with a joint responsible
13 body, the Commission or Executive Body, as
14 the case requires, and the joint responsible body
15 acting jointly;

16

17 **44. Section 54 amended**

18 In section 54(4) delete “controlling body in which the land
19 would be vested under section 7 if the land were of that
20 category.” and insert:

21

22 Commission.

23

24 **45. Section 56A amended**

25 (1) In section 56A(3) delete “jointly, the plan” and insert:

26

27 jointly, unless section 56B applies, the plan

28

- 1 (2) Delete section 56A(5) and insert:
2
- 3 (5) If land is vested in or under the care, control and
4 management of the Commission jointly with a joint
5 responsible body, this section does not prevent the joint
6 responsible body from being a party to a section 56A
7 agreement for the land.
8
- 9 (3) In section 56A(7):
10 (a) delete “unless —” and insert:
11
12 unless section 56B applies or —
13
- 14 (b) delete paragraph (a) and insert:
15
16 (a) the Commission has given written approval to
17 the agreement; and
18

19 **46. Section 56B inserted**

20 After section 56A insert:
21

22 **56B. Section 56A agreement may be continued for new**
23 **management plan**

- 24 (1) If —
25 (a) on the expiry of a management plan for land, a
26 new management plan is made in respect of the
27 same land; and
28 (b) the new management plan requires the CEO to
29 manage the land jointly with the same persons
30 who managed the land jointly with the CEO
31 under the expired management plan; and

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- 1 (c) approval is given in accordance with
2 subsection (2),
3 the section 56A agreement that was attached to the
4 expired management plan is to be attached to the new
5 management plan and has effect as if it were a
6 section 56A agreement signed in accordance with
7 section 56A(3).
8 (2) A section 56A agreement must not be attached to a
9 new management plan under subsection (1) unless each
10 of the following has given written approval to the
11 agreement being so attached —
12 (a) the Commission;
13 (b) any joint responsible body in which the land is
14 vested, or that has the care, control and
15 management of the land, jointly with the
16 Commission.
17

18 **47. Section 60 amended**

19 In section 60(2b) delete “Marine Authority” and insert:

20
21 Commission
22

23 **48. Section 62 amended**

24 (1) In section 62(1aaa)(g) delete “Conservation Commission; or”
25 and insert:

26
27 Commission or the Executive Body; or
28

1 (2) In section 62(1a) delete “Marine Authority” and insert:

2

3 Commission

4

5 (3) In section 62(1ba) delete “subsection (1aa), the” and insert:

6

7 subsection (1aa), (1a) or (1b), the

8

9 (4) Delete section 62(1c) and (1d).

10 **49. Section 64 replaced**

11 Delete section 64 and insert:

12

13 **64. Certain moneys credited to Department**

14 The account established for the purposes of the
15 operations of the Department is to be credited with —

16 (a) moneys from time to time derived under this
17 Act by the CEO from dealing with or the
18 management of any land which is vested in or
19 under the care, control and management of the
20 Commission, whether solely or jointly with a
21 joint responsible body; and

22 (b) subject to any direction of the Treasurer,
23 moneys received by the CEO by way of —

24 (i) payments under the *Forest Products*
25 Act 2000 section 42(2)(d); and

26 (ii) recovery of the costs referred to in
27 section 59(1)(c) and (d) of that Act.

28

s. 50

1 **50. Section 97 amended**

2 (1) In section 97(1) delete “21” and insert:

3

4 99

5

6 (2) Delete section 97(2).

7 **51. Section 99 amended**

8 In section 99(1):

9 (a) delete paragraph (aa) and insert:

10

11 (aa) in the case of land vested in or under the care,
12 control and management of the Commission,
13 after consultation with the Commission and,
14 where applicable, a joint responsible body; and

15

16 (b) delete paragraph (ab).

17 **52. Section 100 amended**

18 (1) In section 100(1) delete “21” and insert:

19

20 99

21

22 (2) Delete section 100(2).

23 **53. Section 101 amended**

24 In section 101(1a) delete “Conservation Commission or the
25 Marine Authority, as the case requires, and” and insert:

26

27 Commission, and

28

1 **54. Section 104 amended**

2 In section 104(2) delete “\$250” and insert:

3

4 \$1 000

5

6 **55. Part IX Division 4A heading inserted**

7 After section 114 insert:

8

9 **Division 4A — Infringement notices**

10

11 **56. Section 114AA inserted**

12 Before section 114A insert:

13

14 **114AA. Terms used**

15 (1) In this Division —

16 *alleged offender* means a person suspected of having
17 committed a prescribed offence against this Act or the
18 regulations;

19 *owner*, in relation to a vessel, has the meaning given in
20 the *Western Australian Marine Act 1982* section 3(1);

21 *vessel offence* means an alleged offence against this
22 Act in connection with a vessel.

23 (2) Words and expressions defined in the *Criminal*
24 *Procedure Act 2004* section 11 have the same meaning
25 in this Division unless the contrary intention appears.
26

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1 **57. Section 114A amended**

2 (1) In section 114A(1) delete “give to that person an infringement
3 notice in the prescribed form.” and insert:

4
5 issue an infringement notice for the alleged offence.
6

7 (2) Delete section 114A(2) and insert:

8
9 (2) The infringement notice must —

- 10 (a) be in the prescribed form; and
11 (b) be addressed to the alleged offender by name,
12 unless section 114B(1) or 114D(1) applies; and
13 (c) describe the offence with reasonable clarity;
14 and
15 (d) identify the written law and the provision of it
16 that creates the offence; and
17 (e) identify with reasonable clarity —
18 (i) the date when the offence was
19 committed or, if the date is not known,
20 the period in which the offence was
21 committed; and
22 (ii) where the offence was committed;
23 and
24 (f) state the modified penalty for the offence; and
25 (g) be dated with the date it is issued; and
26 (h) inform the alleged offender —
27 (i) that within 28 days after the date of the
28 notice the alleged offender may elect to
29 be prosecuted for the alleged offence;
30 and
31 (ii) how to make such an election; and

- 1 (iii) that if the alleged offender does not
2 want to be prosecuted for the alleged
3 offence, the modified penalty for the
4 offence may be paid to the CEO within
5 28 days after the date of the notice; and
6 (iv) how and where the modified penalty
7 may be paid;
8 and
9 (i) if the *Fines, Penalties and Infringement Notices*
10 *Enforcement Act 1994* Part 3 applies to the
11 notice, inform the alleged offender of the action
12 that may be taken under that Act if the alleged
13 offender does not act in accordance with the
14 notice.
- 15 (3A) The infringement notice must be served under
16 subsection (4) within 45 days after the day on which
17 the alleged offence is believed to have been committed.
18
- 19 (3) Delete section 114A(4) and insert:
20
- 21 (4) Unless section 114B(1)(b)(i) or 114D(1)(b)(i) applies,
22 an infringement notice must be served on an alleged
23 offender —
24 (a) if the offender is an individual, in accordance
25 with the *Criminal Procedure Act 2004*
26 Schedule 2 clause 2 or 3; or
27 (b) if the offender is a corporation, in accordance
28 with the *Criminal Procedure Act 2004*
29 Schedule 2 clause 3 or 4; or
30 (c) if the offender's address is ascertained at the
31 time of or immediately after the alleged offence
32 was committed, by posting it to the offender at
33 that address.
34

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1 (4) In section 114A(5) delete “A person” and insert:

2

3 An alleged offender

4

5 (5) In section 114A(6) delete “at any time within a period of
6 28 days after it was given”.

7 (6) In section 114A(8) delete “the person” and insert:

8

9 the alleged offender

10

11 Note: The heading to amended section 114A is to read:

12 **Issuing infringement notices**

13 **58. Sections 114B to 114E inserted**

14 At the end of Part IX Division 3 insert:

15

16 **114B. Infringement notices for vehicle offences**

17 (1) If an alleged offence is a vehicle offence and the
18 identity of the alleged offender is not known and
19 cannot immediately be ascertained, an infringement
20 notice for the alleged offence —

21 (a) despite section 114A(2)(b), may be addressed
22 to the responsible person for the vehicle
23 without naming that person or the alleged
24 offender; and

25 (b) may be served on the responsible person —

26 (i) despite section 114A(4), by attaching it
27 securely to the vehicle; or

28 (ii) in accordance with section 114A(4)(a)
29 or (b).

- 1 (2) An infringement notice that is served under
2 subsection (1) must contain or be accompanied by a
3 statement explaining the operation of section 114C.
- 4 (3) If an infringement notice is served on a responsible
5 person under subsection (1) and there are several
6 responsible persons, the notice is to be taken to have
7 been served on —
- 8 (a) if only one responsible person responds to the
9 notice — that responsible person; or
- 10 (b) in any other case — not more than one
11 responsible person chosen by the CEO.
- 12 (4) A person, other than a person in charge of the vehicle
13 or a responsible person for the vehicle, must not
14 interfere with an infringement notice that is left on a
15 vehicle.

16 Penalty: a fine of \$1 000.

17 **114C. Onus of responsible person for vehicle offence**

- 18 (1) If under section 114B(1) an infringement notice is
19 served on a responsible person, the responsible person
20 is to be presumed to have been the driver or person in
21 charge of the vehicle at the time of the vehicle offence
22 alleged in the notice unless, within 28 days after the
23 date of the infringement notice —
- 24 (a) the modified penalty specified in the notice is
25 paid; or
- 26 (b) the responsible person informs the CEO that the
27 responsible person was not the driver or person
28 in charge of the vehicle at the time of the
29 alleged offence and supplies the CEO —
- 30 (i) with the name and address of the driver
31 or person in charge of the vehicle at that
32 time; or

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- 1 (ii) with information showing that at that
2 time the vehicle had been stolen or
3 unlawfully taken or was being
4 unlawfully used.
- 5 (2) If a responsible person complies with subsection (1)(b)
6 the infringement notice may be withdrawn under
7 section 114A(6).
- 8 (3) If a responsible person complies with subsection (1)(b)
9 and the CEO decides not to withdraw the infringement
10 notice under section 114A(6), the CEO must advise the
11 person of the decision.
- 12 (4) The presumption in subsection (1) operates even if the
13 responsible person is not an individual.
- 14 (5) The presumption in subsection (1) operates, in the
15 absence of evidence to the contrary, for the purpose of
16 enforcing the infringement notice and for the purpose
17 of any prosecution of the responsible person for the
18 alleged offence.
- 19 (6) The presumption in subsection (1) does not affect the
20 liability of the person who actually committed the
21 offence but —
- 22 (a) the responsible person and the actual offender
23 cannot both be issued an infringement notice or
24 sentenced for the same offence; and
- 25 (b) if one of them pays a modified penalty or is
26 sentenced for the offence, the modified penalty
27 paid by the other must be refunded; and
- 28 (c) if one of them is sentenced for the offence, a
29 sentence must not be imposed on the other for
30 the offence.

- 1 **114D. Infringement notices for vessel offences**
- 2 (1) If an alleged offence is a vessel offence and the identity
3 of the alleged offender is not known and cannot
4 immediately be ascertained, an infringement notice for
5 the alleged offence —
- 6 (a) despite section 114A(2)(b), may be addressed
7 to the owner of the vessel without naming that
8 person or the alleged offender; and
- 9 (b) may be served on the owner —
- 10 (i) despite section 114A(4), by attaching it
11 securely to the vessel; or
- 12 (ii) in accordance with section 114A(4)(a)
13 or (b).
- 14 (2) An infringement notice that is served under
15 subsection (1) must contain or be accompanied by a
16 statement explaining the operation of section 114E.
- 17 (3) If an infringement notice is served on an owner of a
18 vessel under subsection (1) and there are several
19 owners of the vessel, the notice is to be taken to have
20 been served on —
- 21 (a) if only one owner responds to the notice — that
22 owner; or
- 23 (b) in any other case — not more than one owner
24 chosen by the CEO.
- 25 (4) A person, other than the owner or person in charge of
26 the vessel, must not interfere with an infringement
27 notice that is left on a vessel.
- 28 Penalty: a fine of \$1 000.

29 **114E. Onus of responsible person for vessel offence**

- 30 (1) If under section 114D(1) an infringement notice is
31 served on an owner of a vessel, the owner is to be

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- 1 presumed to have been the person in charge of the
2 vessel at the time of the vessel offence alleged in the
3 notice unless, within 28 days after the date of the
4 infringement notice —
- 5 (a) the modified penalty specified in the notice is
6 paid; or
- 7 (b) the owner informs the CEO that the owner was
8 not the person in charge of the vessel at the
9 time of the alleged offence and supplies the
10 CEO —
- 11 (i) with the name and address of the person
12 in charge of the vessel at that time; or
- 13 (ii) with information showing that at that
14 time the vessel had been stolen or
15 unlawfully taken or was being
16 unlawfully used.
- 17 (2) If an owner complies with subsection (1)(b) the
18 infringement notice may be withdrawn under
19 section 114A(6).
- 20 (3) If an owner complies with subsection (1)(b) and the
21 CEO decides not to withdraw the infringement notice
22 under section 114A(6), the CEO must advise the
23 person of the decision.
- 24 (4) The presumption in subsection (1) operates even if the
25 owner is not an individual.
- 26 (5) The presumption in subsection (1) operates, in the
27 absence of evidence to the contrary, for the purpose of
28 enforcing the infringement notice and for the purpose
29 of any prosecution of the owner for the alleged offence.

- 1 (6) The presumption in subsection (1) does not affect the
2 liability of the person who actually committed the
3 offence but —
4 (a) the owner and the actual offender cannot both
5 be issued an infringement notice or sentenced
6 for the same offence; and
7 (b) if one of them pays a modified penalty or is
8 sentenced for the offence, the modified penalty
9 paid by the other must be refunded; and
10 (c) if one of them is sentenced for the offence, a
11 sentence must not be imposed on the other for
12 the offence.
13

14 **59. Section 121 inserted**

15 After section 120 insert:
16

17 **121. Entry powers in relation to occupied land**

- 18 (1) In this section —
19 *authorised purpose* means any of the following —
20 (a) inspection purposes;
21 (b) the conduct of measures, including planned
22 burning, for the purpose of preventing,
23 managing or controlling fire;
24 (c) the management of land in accordance with a
25 management plan;
26 (d) the carrying out of any other function of an
27 enforcement officer in relation to the land;
28 *enforcement officer* means —
29 (a) a wildlife officer; or
30 (b) a forest officer; or
31 (c) a ranger; or

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- 1 (d) a conservation and land management officer;
- 2 ***inspection purposes*** means the purposes of —
- 3 (a) investigating whether this Act is being or has
- 4 been complied with; and
- 5 (b) investigating whether the obligations of the
- 6 holder of a permit, licence, agreement or forest
- 7 lease, under this Act are being or have been
- 8 complied with; and
- 9 (c) obtaining evidence as to those matters;
- 10 ***occupied land*** means any land to which this Act
- 11 applies, section 8A land or section 8C land, being land
- 12 that is used or occupied —
- 13 (a) under a permit, licence, agreement or forest
- 14 lease, under this Act; or
- 15 (b) under a mining tenement as defined in the
- 16 *Mining Act 1978* section 8(1); or
- 17 (c) under a petroleum authorisation as defined in
- 18 section 13E(1) or a licence granted as referred
- 19 to in section 13E(4) or renewed as referred to in
- 20 section 13E(3)(b).
- 21 (2) An enforcement officer may, for an authorised purpose,
- 22 at any time enter occupied land.
- 23 (3) Before an enforcement officer enters land under this
- 24 section, the officer must if practicable give reasonable
- 25 notice to the owner and occupier of the land of the
- 26 intention to do so.
- 27 (4) An enforcement officer exercising a power of entry
- 28 may do so with such vehicles, machinery and
- 29 equipment as the person considers to be necessary or
- 30 expedient —
- 31 (a) for the purpose of the entry; and
- 32 (b) for any purpose for which the entry is made.

- 1 (5) An enforcement officer may not, under this section,
2 enter a residence or other premises unless the occupier
3 of the premises has consented to the entry.
- 4 (6) Nothing in this section —
- 5 (a) limits the powers conferred on the following —
- 6 (i) forest officers under section 120;
- 7 (ii) rangers and conservation and land
8 management officers under section 124;
- 9 (iii) wildlife officers under section 125;
- 10 (iv) enforcement officers under
11 section 45(3a) and the *Bush Fires*
12 *Act 1954*;
- 13 or
- 14 (b) limits the powers of an enforcement officer
15 who is a police officer.
- 16

17 **60. Section 126 amended**

18 After section 126(2) insert:

19

- 20 (3) Regulations made under this section or section 130
21 may prohibit or regulate commercial operations on land
22 to which they apply.
- 23

24 **61. Section 130 amended**

25 In section 130(3) delete “and 16B(3).” and insert:

26

27 and 8B(2).

28

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1 **62. Section 131 amended**

2 (1) In section 131(1) delete “CEO” and insert:

3

4 Executive Body

5

6 (2) In section 131(2) delete “section 9(3).” and insert:

7

8 section 10A(7)(a).

9

10 Note: The heading to amended section 131 is to read:

11 **Vesting of land formerly registered in name of Conservator of**
12 **Forests**

13 **63. Section 131A amended**

14 In section 131A(1) delete “or 26C(1)”.

15 **64. Section 132 replaced**

16 Delete section 132 and insert:

17

18 **132. Protection from personal liability**

19 (1) A person does not incur civil liability for anything done
20 by the person in good faith in, or in connection with,
21 the performance or purported performance of functions
22 under this Act or the *Wildlife Conservation Act 1950*.

23 (2) The State is also relieved of any civil liability for
24 anything done or omitted to be done in good faith in, or
25 in connection with, the performance or purported
26 performance of a function under this Act or the *Wildlife*
27 *Conservation Act 1950* in relation to preventing,
28 managing or controlling fire on land to which this Act
29 applies, section 8A land or section 8C land.

- 1 (3) Without limiting subsection (1), a person who is —
2 (a) a party to an agreement made under section 8A;
3 or
4 (b) a member of a joint management body
5 established in accordance with section 8A; or
6 (c) a party to a section 56A agreement for land; or
7 (d) a member of a joint management body for the
8 land established in accordance with
9 section 56A,
10 has, in relation to the management of the agreed area or
11 other land for the purposes of this Act, the same
12 protection from liability under subsection (1) as if the
13 management were a function under this Act performed
14 by that person.
15 (4) The protection given by this section applies even
16 though the thing done in the performance or purported
17 performance of a function under this Act or the *Wildlife*
18 *Conservation Act 1950* may have been capable of
19 being done whether or not those Acts had been
20 enacted.
21 (5) In this section, a reference to the doing of anything
22 includes a reference to the omission to do anything.
23

24 **65. Part XII heading replaced**

25 Delete the heading to Part XII and insert:
26

27 **Part XII — *Conservation and Land Management***
28 ***Act 1984, repeal, savings, transitional***
29 ***and validation***
30

1 **66. Part XIII inserted**

2 After section 156 insert:

3

4 **Part XIII — Conservation and Land**
5 **Management Amendment Act 2015 saving and**
6 **transitional provisions**

7 **157. Terms used**

8 In this Part —

9 *amended Act* means this Act as amended by the
10 *Conservation and Land Management Amendment*
11 *Act 2015*;

12 *commencement day* means the day on which the
13 *Conservation and Land Management Amendment*
14 *Act 2015* section 38 comes into operation;

15 *Conservation Commission* has the meaning given in
16 section 3 of the former Act;

17 *former Act* means this Act as in force before the
18 commencement day;

19 *Marine Authority* has the meaning given in section 3
20 of the former Act.

21 **158. Certain liabilities and assets to be vested in the**
22 **Executive Body**

23 Subject to, and without limiting, sections 7, 131
24 and 155, on the coming into operation of the
25 *Conservation and Land Management Amendment*
26 *Act 2015* section 66 —

- 27 (a) any right, obligation or liability vested in or
28 imposed on the CEO under section 150(a) and
29 of effect immediately before the coming into
30 operation of the *Conservation and Land*

1 *Management Amendment Act 2015* section 66
2 is vested in or imposed on the Executive Body;
3 and
4 (b) all real and personal property vested in the
5 CEO under section 150(b) and held by the CEO
6 immediately before the coming into operation
7 of the *Conservation and Land Management*
8 *Amendment Act 2015* section 66 is vested in the
9 Executive Body.

10 **159. Land and waters vested in the Conservation**
11 **Commission or Marine Authority**

- 12 (1) The care, control and management of any land or
13 waters that, immediately before the commencement
14 day, were placed under the *Land Administration*
15 *Act 1997* Part 4 with the Conservation Commission or
16 the Marine Authority (the *prior placement*), whether
17 solely or jointly with another person, are, on the
18 commencement day and by this subsection placed
19 under that Part with the Commission solely, or jointly
20 with the Commission and that other person, as the case
21 requires.
- 22 (2) Any land or waters that immediately before the
23 commencement day were vested in the Conservation
24 Commission or the Marine Authority under a provision
25 of this Act (the *prior vesting*), whether solely or jointly
26 with another person, are, on the commencement day
27 and by this subsection vested under that provision in
28 the Commission solely, or jointly in the Commission
29 and that other person, as the case requires.
- 30 (3) A placement or vesting under this section is subject to
31 any interests or conditions that applied to the prior
32 placement or prior vesting.

- 1 **160. Completion of things commenced**
- 2 Anything commenced to be done by the Conservation
3 Commission or the Marine Authority before the
4 commencement day may be continued by the
5 Commission so far as the doing of that thing is within
6 the functions of the Commission.
- 7 **161. Continuing effect of things done**
- 8 Anything done or omitted to be done before the
9 commencement day by, to or in respect of the
10 Conservation Commission or the Marine Authority, to
11 the extent that it —
- 12 (a) has any force or significance; and
- 13 (b) is a thing that could be done or omitted to be
14 done by, to or in respect of the Commission
15 under the amended Act,
- 16 is to be taken to have been done or omitted by, to or in
17 respect of the Commission.
- 18 **162. Reports and notifications**
- 19 (1) Any of the following reports of the Marine Authority
20 has effect as if it were a report of the Commission —
- 21 (a) a report under section 14(1a)(a) in respect of a
22 proposal of which public notification is not
23 given before the commencement day;
- 24 (b) a report under section 14(6)(a) in respect of
25 submissions on a proposal that is not submitted
26 to the Governor before the commencement day.
- 27 (2) A decision of the Marine Authority notified under
28 section 17(3) on a proposal on which the Minister does
29 not make a recommendation before the commencement
30 day has effect as if it were a decision of the
31 Commission.

1 **163. Management plans**

2 (1) A management plan prepared by the Conservation
3 Commission or the Marine Authority, whether solely
4 or jointly with an associated body, under Part V of the
5 former Act has effect as if it had been prepared by the
6 Commission, or the Commission jointly with the
7 relevant joint responsible body, under Part V of the
8 amended Act.

9 (2) Any steps taken by the Conservation Commission or
10 the Marine Authority, whether solely or jointly with an
11 associated body, under Part V of the former Act in
12 relation to a proposed management plan that has not
13 been approved by the Minister before the
14 commencement day have effect as if they were steps
15 taken by the Commission, or the Commission jointly
16 with the relevant joint responsible body, for the
17 purposes of Part V of the amended Act.

18 **164. Section 57A exemptions**

19 Any exemption given to the Conservation Commission
20 or the Marine Authority under section 57A of the
21 former Act, and of effect immediately before the
22 commencement day, has effect as if it were an
23 exemption given to the Commission.

24 **165. Members of Conservation Commission, Authority
25 and Marine Committee**

26 A person who holds office as a member of the
27 Conservation Commission, the Marine Authority or the
28 Marine Committee immediately before the
29 commencement day, ceases to hold that office on the
30 commencement day but, subject to this Act, is eligible
31 to be appointed as a member of the Commission.

- 1 **166. Registration of documents**
- 2 (1) In this section —
- 3 *relevant official* means —
- 4 (a) the Registrar of Titles; or
- 5 (b) the Registrar of Deeds and Titles; or
- 6 (c) any other person authorised by a written law to
- 7 record and give effect to the registration of
- 8 documents relating to property transactions,
- 9 according to which, if any, of them has responsibility
- 10 for a register relating to the relevant property;
- 11 *relevant property* means property of a kind affected by
- 12 this Part, whether it is an estate or interest in land or
- 13 other property.
- 14 (2) The relevant officials are to take notice of this Part and
- 15 are to record and register in the appropriate manner the
- 16 documents necessary to show the effect of this Part.
- 17 **167. Transfer of documents**
- 18 As soon as practicable after the commencement day all
- 19 records and data of the Conservation Commission, the
- 20 Marine Authority and the Marine Committee are to be
- 21 delivered to the Commission.
- 22 **168. Transitional regulations**
- 23 (1) In this section —
- 24 *transitional matter* means a matter that needs to be
- 25 dealt with for the purpose of effecting the transition
- 26 from the former Act to the amended Act.
- 27 (2) If there is no sufficient provision in the *Conservation*
- 28 *and Land Management Amendment Act 2015* for
- 29 dealing with a transitional matter, the Governor may
- 30 make regulations prescribing all matters that are

- 1 required, or are necessary or convenient, for dealing
2 with that transitional matter.
- 3 (3) Regulations made under subsection (2) may have effect
4 before the day on which they are published in the
5 *Gazette*.
- 6 (4) To the extent that a regulation made under
7 subsection (2) may have effect before the day of its
8 publication in the *Gazette*, it does not —
- 9 (a) affect in a manner prejudicial to any person
10 (other than the State, the CEO or the
11 Commission), the rights of that person existing
12 before the day of its publication; or
- 13 (b) impose liabilities on any person (other than the
14 State, the CEO or the Commission) in respect
15 of anything done or omitted to be done before
16 the day of its publication.

17 **169. Saving**

- 18 The operation of any provision of this Part is not to be
19 regarded —
- 20 (a) as a breach of contract or confidence or
21 otherwise as a civil wrong; or
- 22 (b) as a breach of any contractual provision
23 prohibiting, restricting or regulating the
24 assignment or transfer of property, rights or
25 liabilities or the disclosure of information; or
- 26 (c) as giving rise to any remedy by a party to an
27 instrument or as causing or permitting the
28 termination of any instrument, because of a
29 change in the beneficial or legal ownership of
30 any property, right or liability; or
- 31 (d) as causing any contract or other instrument to
32 be void or otherwise unenforceable; or

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- 1 (e) as releasing or allowing the release of any
2 surety.

3 **170. Interpretation Act 1984 not affected**

4 Nothing in this Part is to be construed so as to limit the
5 operation of the *Interpretation Act 1984*.
6

7 **67. Schedule heading replaced**

8 Delete the heading to the Schedule and insert:
9

10 **Schedule 1 — Provisions as to constitution and**
11 **proceedings of the Commission**
12

13 **68. Schedule amended**

14 (1) In the Schedule clause 4:

15 (a) delete subclause (1) and insert:
16

17 (1) The first meeting of the Commission must be convened by
18 the chairman of the Commission.

19 (2A) Subsequent meetings of the Commission, unless convened
20 under subclause (2), are to be held at times and places
21 determined by the Commission.
22

23 (b) in subclause (3) delete “of that body”.

24 (2) In the Schedule clause 5A:

25 (a) delete subclause (1a);

26 (b) in subclause (2) delete “or (1a)”;

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(c) delete subclause (3) and insert:

(3) Subject to the directions of the Commission, a committee may determine its own procedures.

69. Various references to “Conservation Commission” amended

In the provisions listed in the Table delete “Conservation Commission” (each occurrence) and insert:

Commission

Table

s. 6(3)(a)	s. 7(2), (2a), (3) and (4)
s. 8A(7) and (8)(d)	s. 8B(2)(f)
s. 18(2)	s. 19(1), (3), (4), (5), (6), (7)(b), (8) and (10)(a)
s. 20(1), (6) and (7)	s. 21(1), (2) and (5)
s. 24(1) and (2)	s. 25(1)(a), (2)(a) and (b), (3) and (4) def. of <i>information</i>
s. 26AA(1)	s. 26AB(1), (2), (3), (4), (5), (7) and (8)
s. 26AC(1)	s. 33(1)(cb)(iii)
s. 49(a)	s. 53 def. of <i>responsible body</i> par. (c)
s. 59A(2)	s. 62(1aaa)(f), (1ba) and (1bb)

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s. 87A(1)(b)	s. 97A(2)
s. 99A(1) and (6)	s. 101(1e)(b)
Sch. cl. 5A(1)	

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Notes:

1. The heading to amended section 7 is to read:

Lands vested in Commission

2. The heading to amended section 18 is to read:

Commission established

70. Various references to “controlling body” amended

In the provisions listed in the Table:

(a) delete “a controlling body” and insert:

the Commission

(b) delete “each controlling body” and insert:

the Commission

(c) delete “the controlling body” and insert:

the Commission

(d) delete “A controlling body” and insert:

The Commission

1

Table

s. 30	s. 31(1) and (2)
s. 54(1)(a)	s. 56A(2) and (7)(b)
s. 56(1)(e)	Sch. cl. 3(1)
Sch. cl. 4(2), (3), (4) and (5)	Sch. cl. 5(1) and (2)
Sch. cl. 6	Sch. cl. 7
Sch. cl. 8	

2

Note: The heading to the amended Schedule clause 8 is to read:

3

Commission to determine own procedure

4

71. Various references to “associated body” amended

5

In the provisions listed in the Table:

6

(a) delete “any associated body” and insert:

7

any joint responsible body

8

9

(b) delete “an associated body” and insert:

10

a joint responsible body

11

12

(c) delete “the associated body” and insert:

13

the joint responsible body

14

15

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s. 71

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Table

s. 7(4)(c) and (d)	s. 19(1)(e), (f), (g) and (k)
s. 33(1)(cb)(iii)	s. 54(1)(a)
s. 56A(7)(b)	s. 99A(1) and (6)
s. 101(1e)(b)	

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Part 3 — Other Acts amended

72. Constitution Acts Amendment Act 1899 amended

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete the item relating to the Conservation Commission of Western Australia and insert:

The Conservation and Parks Commission established under
the *Conservation and Land Management Act 1984*.

73. Fish Resources Management Act 1994 amended

- (1) This section amends the *Fish Resources Management Act 1994*.
- (2) Delete section 136A(1) and (2) and insert:

- (1) An authorisation must not be issued or renewed if it would authorise a person to engage in —
 - (a) commercial fishing in an area of a marine nature reserve; or
 - (b) commercial fishing in an area, or part of an area, of a marine park from which commercial fishing is excluded under the *Conservation and Land Management Act 1984* section 13B(6A)(a); or
 - (c) commercial fishing of a type or class specified in a declaration under the *Conservation and Land Management Act 1984* section 13B(3B)(c) in an area, or part of an area, of a marine park from which commercial fishing of that type or class is excluded under the *Conservation and Land Management Act 1984* section 13B(6A)(b).

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- 1 (2) An authorisation must not be issued or renewed if it
2 would authorise a person to engage in —
- 3 (a) recreational fishing in an area of a marine
4 nature reserve; or
- 5 (b) recreational fishing in an area, or part of an
6 area, of a marine park from which recreational
7 fishing is excluded under the *Conservation and*
8 *Land Management Act 1984*
9 section 13B(7A)(a); or
- 10 (c) recreational fishing of a type or class specified
11 in a declaration under the *Conservation and*
12 *Land Management Act 1984*
13 section 13B(3A)(b) or 13B(3B)(e) in an area, or
14 part of an area, of a marine park from which
15 recreational fishing of that type or class is
16 excluded under the *Conservation and Land*
17 *Management Act 1984* section 13B(7A)(b).
18
- 19 (3) In section 136A(4):
- 20 (a) after “an authorisation” insert:
21
22 to engage in commercial fishing generally, or
23 commercial fishing of a type or class,
24
- 25 (b) in paragraph (b) delete “commercial fishing” and insert:
26
27 the commercial fishing
28
- 29 (4) After section 136A(4) insert:
30
- 31 (5) If an authorisation to engage in recreational fishing
32 generally, or recreational fishing of a type or class,

1 relates to a particular area (the *authorised area*) and a
2 part of the authorised area becomes —

- 3 (a) an area of a marine nature reserve; or
4 (b) an area of a marine park from which the
5 recreational fishing is excluded under the
6 *Conservation and Land Management Act 1984*
7 section 13B,

8 nothing in this section prevents the authorisation from
9 being renewed in respect of the remainder of the
10 authorised area.

11 (6) If —

- 12 (a) an authorisation relates to more than one type
13 or class of commercial fishing or recreational
14 fishing in a particular area, or part of a
15 particular area, of a marine park; and
16 (b) a declaration is made under the *Conservation*
17 *and Land Management Act 1984*
18 section 13B(3A)(b) or (3B)(c) or (e) in relation
19 to any of those types or classes of commercial
20 fishing or recreational fishing in that area or
21 part; and
22 (c) the area or part is not an area or part from
23 which the remainder of the types or classes of
24 commercial fishing or recreational fishing are
25 excluded under the *Conservation and Land*
26 *Management Act 1984* section 13B,

27 nothing in this section prevents the authorisation from
28 being renewed in respect of the types or classes of
29 commercial fishing or recreational fishing that are not
30 so excluded in that area or part.
31

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1 **74. *Fishing and Related Industries Compensation (Marine***
2 ***Reserves) Act 1997 amended***

3 (1) This section amends the *Fishing and Related Industries*
4 *Compensation (Marine Reserves) Act 1997*.

5 (2) In section 4(d) delete “would be” and insert:
6

7 would, either wholly, or in the case of commercial fishing, by
8 reference to a class or type of commercial fishing, be
9

10 (3) After section 5(2)(a) insert:
11

12 (ba) the authorisation relates to commercial fishing
13 of more than one type or class and will not be
14 able to be renewed in respect of each of those
15 types or classes;
16

17 **75. *Forest Products Act 2000 amended***

18 (1) This section amends the *Forest Products Act 2000*.

19 (2) In section 3 delete the definition of ***Conservation Commission***.

20 (3) In section 3 insert in alphabetical order:
21

22 ***Conservation and Parks Commission*** means the
23 Conservation and Parks Commission established under
24 the *Conservation and Land Management Act 1984*;
25

26 (4) Delete section 6(3)(b) and insert:
27

28 (b) a member of the Conservation and Parks
29 Commission or a member of the staff of the
30 CALM Act Department provided under the
31 CALM Act section 33(1)(ba);
32

1 **76. *Land Administration Act 1997* amended**

2 (1) This section amends the *Land Administration Act 1997*.

3 (2) Delete section 46(10)(b)(ii).

4 **77. *Mining Act 1978* amended**

5 (1) This section amends the *Mining Act 1978*.

6 (2) In section 40B(1)(b) delete “Conservation Commission.” and
7 insert:

8

9 Conservation and Parks Commission established under the
10 *Conservation and Land Management Act 1984*.

11

12 **78. *Swan and Canning Rivers Management Act 2006* amended**

13 (1) This section amends the *Swan and Canning Rivers Management*
14 *Act 2006*.

15 (2) In Schedule 5:

16 (a) in item 3 delete “Conservation Commission” and insert:

17

18 Conservation and Parks Commission

19

20 (b) delete item 4.

21
