

PUBLIC

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**OPERATIONAL RELATIONSHIP AGREEMENT
BETWEEN THE
CONSERVATION COMMISSION OF WESTERN AUSTRALIA
AND THE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

1. INTRODUCTION

At a special meeting of the Conservation Commission (the Commission) on Monday 3 July 2006, it was resolved that the Department of Environment and Conservation (DEC) should be requested to provide a service unit for the Commission under an agreement. An expected outcome of this agreement is the provision of more flexible support for the Commission and improved career paths for staff while maintaining full and complete control of staff activities by the Commission, other than as specifically provided for in the agreement and subject to relevant legislation.

Section 33 of the *Conservation and Land Management Act 1984* (the CALM Act) sets out that, without limiting the Commission's power to engage staff under section 20 (2) of the CALM Act and subject to the direction and control of the Minister for Environment (the Minister), it is a function of DEC to provide the Commission with any staff and facilities that it may reasonably require to perform its functions.

A dedicated service unit will be provided to the Commission and the Commission will be directly responsible for the unit.

The unit, known as the Conservation Commission Service Unit (CCSU), is housed within DEC and comprises the Director of the Commission and such other staff as agreed by the Commission and DEC who report to the Director.

It is noted that CCSU personnel are employees of DEC under the *Public Sector Management Act 1994* and have obligations under that Act to the Director General of DEC.

The purpose of this agreement is to provide for the service arrangements as well as information about the relationship between the Commission and DEC as a whole.

This agreement should be read jointly with the relevant provisions of the CALM Act.

2. GENERAL

The basis of the relationship between the Commission and DEC is that each agency will at all time recognise the other party's role and responsibilities in the spirit of partnership to optimise relevant environmental and conservation outcomes.

The broad objectives of this agreement are to:

- 2.1 Ensure that protocols for service arrangements are articulated and the separate roles and responsibilities are clear and that the independence of the Commission is fully acknowledged;
- 2.2 Provide for an open, cooperative and effective partnership for the advancement of better biodiversity, conservation and land management in the State;

- 2.3 Acknowledge the Commission's responsibilities with respect to management planning and its function to assess and audit DEC's carrying out and complying with management plans approved under the CALM Act; and
- 2.4 Optimise information sharing and knowledge management.

3. ROLES AND RESPONSIBILITIES

While the relevant statutory framework for the roles and responsibilities of the Commission and DEC is provided for in the CALM Act, operationally and in summary:

3.1 The Commission:

- (a) Provides policy and other conservation and environmental advice and makes recommendations to the Minister.
- (b) Advises the Minister and DEC on ecologically sustainable forest management.
- (c) Advises the Minister on the sustained production of forest produce.
- (d) Reviews development proposals that are on or may affect lands vested in the Commission.
- (e) Reviews lease, licence and permit proposals that involve lands vested in the Commission.
- (f) Develops management plans for lands vested in the Commission through the agency of DEC.
- (g) Carries out performance assessments of DEC in respect of the implementation of management plans for vested land.

3.2 DEC in terms of matters relevant to the Commission:

- (a) Provides policy and other conservation and environmental advice and makes recommendations to the Minister.
- (b) Manages land vested in the Commission and other Crown lands.
- (c) Provides assistance to the Commission, such as providing advice to assist the Commission in preparing its submissions relating to development proposals.

- (d) Is responsible for the conservation and protection of flora and fauna throughout the State.
- (e) Promotes and facilitates public recreation on lands vested in the Commission consistent with management objectives.
- (f) Services administrative requirements on behalf of the Commission and under this agreement a range of public sector standards and reporting requirements for the CCSU.

4. ACCOUNTABILITIES

- 4.1 The Commission is accountable to the Minister for the discharge of its duties, functions and responsibilities, and for the quality of advice it provides.
- 4.2 The Commission, through the Chairman, is accountable to the Minister, and Parliament, through the requirement to report annually on the performance of its functions. The reporting and audit of the Conservation Commission's expenditure is included within that for DEC as overseen by the Auditor General.
- 4.3 DEC, through the Director General, is accountable to the Minister, and Parliament, for the performance of its functions, and for the efficient and effective use of public money and therefore all other resources. This includes the resources provided to the CCSU.

5. OPERATING PRINCIPLES

- 5.1 The Commission is independent in its deliberations and in formulating its conclusions, recommendations and advice, and setting its work schedule. The work program of the CCSU is primarily determined by the deliberations and actions of the Commission, along with its obligation to meet other legislative and administrative requirements.
- 5.2 The Commission is supported by DEC, primarily through the CCSU, but also generally by all relevant Divisions. The agreed staffing levels in the CCSU shall be reviewed annually or otherwise by agreement between the Commission and DEC, consistent with the budget allocation for the performance of the Commission's functions. Staff selection will be primarily the responsibility of the Commission with support from DEC.
- 5.3 The CCSU may also support the Minister and DEC, through the Director General, with the concurrence of the Chairman of the Commission.
- 5.4 Support to the Commission will be provided by DEC to meet the Commission's reasonable requirements as they pertain to its functions.

- 5.5 A good working partnership that respects each party's roles will exist between the Commission and DEC.
- 5.6 While the advice of the Commission is independent, the resources used in support of the Commission are part of a government department. CCSU staff and others, when acting on behalf of the Conservation Commission, must behave in a manner consistent with the requirements of the *Public Sector Management Act 1994* and other government administrative policies and practice.
- 5.7 This agreement does not prevent the Commission seeking separate advice from third parties as required.

6. SERVICES AND BUSINESS PROTOCOLS

There are a number of arrangements associated with the provision of services to the Commission by DEC which need business protocols to provide for effective and efficient outcomes:

6.1 The Commission and CCSU:

- (a) Notwithstanding the obligations of various Acts, policies and administrative instructions, the Director of the Commission is responsible to the Chairman of the Commission on a daily basis.
- (b) The formulation of the Commission's financial outputs and indicators will be agreed between the Commission and DEC.
- (c) Officers of the CCSU provide advice to the Commission 'without fear or favour' until the Commission resolves or establishes its position, and at that point officers will be expected to support the Commission's position.
- (d) In providing advice, officers of the CCSU are encouraged to consider alternative recommendations and approaches well grounded on scientific principles.
- (e) CCSU officers will attend an array of external meetings on behalf of the Commission and provide advice to other government agencies, private organisations, companies and members of the public that is consistent with Commission views and policies.
- (f) CCSU officers will use Commission letterhead when writing on behalf of the Commission.

6.2 Technical and professional advice and administrative support form the balance of DEC to the Commission:

- (a) DEC officers provide technical and professional advice to the Commission to support and facilitate the Commission in carrying out its duties, functions and responsibilities.

Where considered appropriate by DEC, or where specifically requested by the Commission, DEC will provide advice to the Commission with a whole-of-department position.

- (b) Where a significant commitment of resources is required in providing specific advice, requests will be put in writing by the Chairman or Director of the Commission to the DEC Director General.
- (c) Administrative support will be provided to the Commission primarily by the Corporate Service Division encompassing the following areas:
- o financial resource management
 - o human resource management
 - o information technology
 - o records
 - o legal
 - o public affairs
 - o front line telephone and reception
 - o vehicle lease arrangements
 - o equipment purchase and maintenance
 - o freedom of information
 - o contract management
 - o library
 - o publications

6.3 CCSU to the Minister and the DEC Director General as necessary:

- (a) The CCSU may be requested to provide advice to the Minister, the Director General or other DEC staff on areas of specialist knowledge held within the CCSU. This will only be provided with the concurrence of the Chairman of the Commission.
- (b) The CCSU provides (*inter alia*) the following service to DEC:
- o Accountability for expenditure it incurs; and
 - o Performance reporting about the CCSU for meeting the requirements of central agencies, in particular the Annual Report to Parliament, the Department of Treasury, Auditor General and the Department of Commerce.

- (c) The primary accountability for service delivery to the Director General is vested with the Director of the Commission. However, this does not obviate the responsibility of all staff to act within the Code of Conduct for DEC and at all times within the accountabilities of the *Financial Administration and Audit Act 1985*, and with propriety.

7. SPECIAL PROTOCOLS

A number of protocols for specific circumstances are also required:

- 7.1 Formulation of Government policy, the drafts of legislation or regulations, and the preparation of, and comments on Cabinet submissions:

Where DEC becomes aware of the formulation of Government policy, the drafting of legislation or regulations or the preparation or commenting upon Cabinet minutes which have the potential to significantly and directly affect Commission responsibilities, DEC will bring to the Minister's attention the Commission interest.

- 7.2 When the Commission becomes aware of matters which have the potential to significantly affect DEC's responsibilities, the Commission will consult with DEC before decisions are taken.

- 7.3 Likewise, when DEC becomes aware of matters which have the potential to significantly affect the Commission's responsibilities, DEC will consult with the Commission before decisions are taken.

- 7.4 The Commission will, in consultation with DEC, prepare Memoranda of Understanding on significant functions of the Commission which involve DEC which set out how those functions are to be handled. An example of this approach is the existing Memorandum of Understanding between DEC and the Commission on performance assessments.

8. DURATION AND REVIEW OF THIS AGREEMENT

This agreement shall operate for three years from the time of signing by the parties and shall be subject to an annual review with amendments made through the agreement of both parties.

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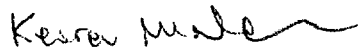
Agreed:



**Patricia Barblett AM
Chairman,
Conservation Commission**

11 / 10 / 2011

Agreed:



**Keiran McNamara
Director General, Department of
Environment and Conservation**

21 / 12 / 2011