



Your ref: A806411  
Our ref: DWERDG190/20  
Enquiries:

Hon Adele Farina MLC  
Chair  
Standing Committee on Public Administration

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Dear Ms Farina

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION – INQUIRY INTO PRIVATE PROPERTY RIGHTS**

Thank you for your letter dated 17 March 2020 providing me with the Standing Committee's further queries in relation to the Inquiry into Private Property Rights. In particular, I note the queries in relation to the Property Interest Reports available from Landgate. A response is provided to each of your questions below:

1. *The 'Native Vegetation' interest appears to refer to an ESA. The Committee is of the view that while the community is becoming familiar with the term "ESA", member of the public would not necessarily understand the term 'native vegetation' to refer to an ESA. Would the Department consider specifying 'ESA' in the title or description of the interest?*

Native vegetation does not refer to environmentally sensitive areas (ESAs). It shows all remaining native vegetation as determined through aerial photography and satellite imagery. This interest needs to be in this form as it advises owners and future owners of land with native vegetation that the clearing provisions of the *Environmental Protection Act 1986* apply.

As previously noted, ESAs are only relevant where native vegetation exists, and in the context of exemptions in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. This would be uncommon, and the inclusion of ESAs in the title or description of the interest would be misleading in many circumstances. There are likely to be technical issues, costs and stakeholder engagement issues associated with making these changes. The Department of Water and Environmental Regulation recommends that the Standing Committee on Public Administration seeks advice from Landgate.

2. *According to the PIR, the agency responsible for native vegetation is the Department of Primary Industries and Regional Development... Could you please confirm which agency is responsible for granting clearing permits?*

DWER administers the *Environmental Protection Act 1986* and therefore is the agency primarily responsible for regulating clearing of native vegetation. There is a delegation to the Department of Mines, Industry Regulation and Safety to administer the clearing provisions of the *Environmental Protection Act 1986* for clearing of native vegetation associated with mineral and petroleum activities regulated under the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969* and the *Petroleum (Submerged Lands) Act 1982* or subject to a Government agreement administered by the Department of Jobs, Tourism, Science and Innovation.

DWER is liaising with Landgate to update incorrect text in the Property Interest Report (PIR).

3. *In this particular PIR, 'Native Vegetation' is listed as an interest that affects the property, and 'Environmental Protection Policies' is listed as an interest that does not affect the property (see attached). The Committee considers that this could be confusing to people, as they may assume their property is not subject to environmental regulation. It is possible to specify or clarify within the PIR interests list what 'environmental protection policies' includes?*

Environmental protection policies are developed by the Environmental Protection Authority under Part III of the EP Act and approved by the Minister for Environment. Current policies are listed below and are available at [www.epa.wa.gov.au/guidelines-and-procedures/environmental-protection-policies](http://www.epa.wa.gov.au/guidelines-and-procedures/environmental-protection-policies).

- Environmental Protection (Western Swamp Tortoise Habitat) Policy 2011
- Environmental Protection Goldfields Residential Areas Sulfur Dioxide Policy and Regulations 2003
- Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999 and Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992
- Environmental Protection Peel Inlet - Harvey Estuary Policy 1992

The Department understands that there may be technical constraints in identifying how these apply to individual properties, and recommends that the Standing Committee on Public Administration seeks advice from Landgate.

Thank you for the opportunity to provide this advice.

Yours sincerely



Mike Rowe  
**DIRECTOR GENERAL**

**02 April 2020**