



# The Right to Roam

**A review of policy and management of public access to land**

Michael Hughes

Curtin Sustainable Tourism Centre

[m.hughes@curtin.edu.au](mailto:m.hughes@curtin.edu.au)

Marian Tye

Centre for Sport and Recreation Research

[m.tye@curtin.edu.au](mailto:m.tye@curtin.edu.au)

# Outline

- Why?
- What we did
- What we found
- Some key points



# Why?

- Access to a clean healthy environment a right
- Increasing pressure on land use eroding access rights
- Need to define 'access' and 'recreation'
- Need to understand how access is managed
- Inform recreation and access policy and management



# What We Did

- Defined 'recreation' and 'access' in WA, NZ and UK contexts
- Compared current legislative and non-legislative elements influencing recreational access in WA, NZ and UK
- Looked at evolution of recreation access in UK and NZ
- Identified key issues for WA context



# What We Found

## UK

- 87% of land in UK countryside privately owned
- Trespass laws prevented public access to many natural areas
- Strong demand for access based on tradition of countryside rambling
- Right to roam laws evolved over 100 years of debate and numerous bills



# What We Found

## UK

### Countryside Rights of Way Act 2000

- Right to recreationally use private land
- Countryside Agency administers the CROW Act
- Clearly defines recreation and access
- Clearly defines what is not allowed
- Clearly defines landholder's rights



# What We Found

## UK

Countryside Rights of Way Act 2000

Access for open air unpowered recreation

- 
- Walking
  - Scrambling
  - Climbing
  - Potholing
  - Scree running
  - Picnicking
  - Informal games
  - Skiing
  - Tobogganing
  - And similar
  - Organised games / competitions
  - Hang gliding
  - Paragliding
  - Camping
  - Swimming (non-tidal waters)
  - Hunting / Fishing
  - Criminal behaviour
  - Commercial activities
  - Vehicles
  - Companion animals



# What We Found

## New Zealand

- 50% of land in NZ privately owned
- Access to public foreshore areas hampered by trespass laws
- Strong demand for access to public land across private land
- Wide community consultation over 5 years
- Maori land rights a factor guiding debate



# What We Found

## New Zealand

### Walking Access Act 2008

- Right to cross private land on foot to access public land for recreation
- Walking Access Commission oversees and regulates access management
- Act clearly defines procedures for creation and management of walkways
- Clearly defines types of access
- Clearly defines public and landholder responsibilities



# Some Key Points

## Lessons from NZ and UK

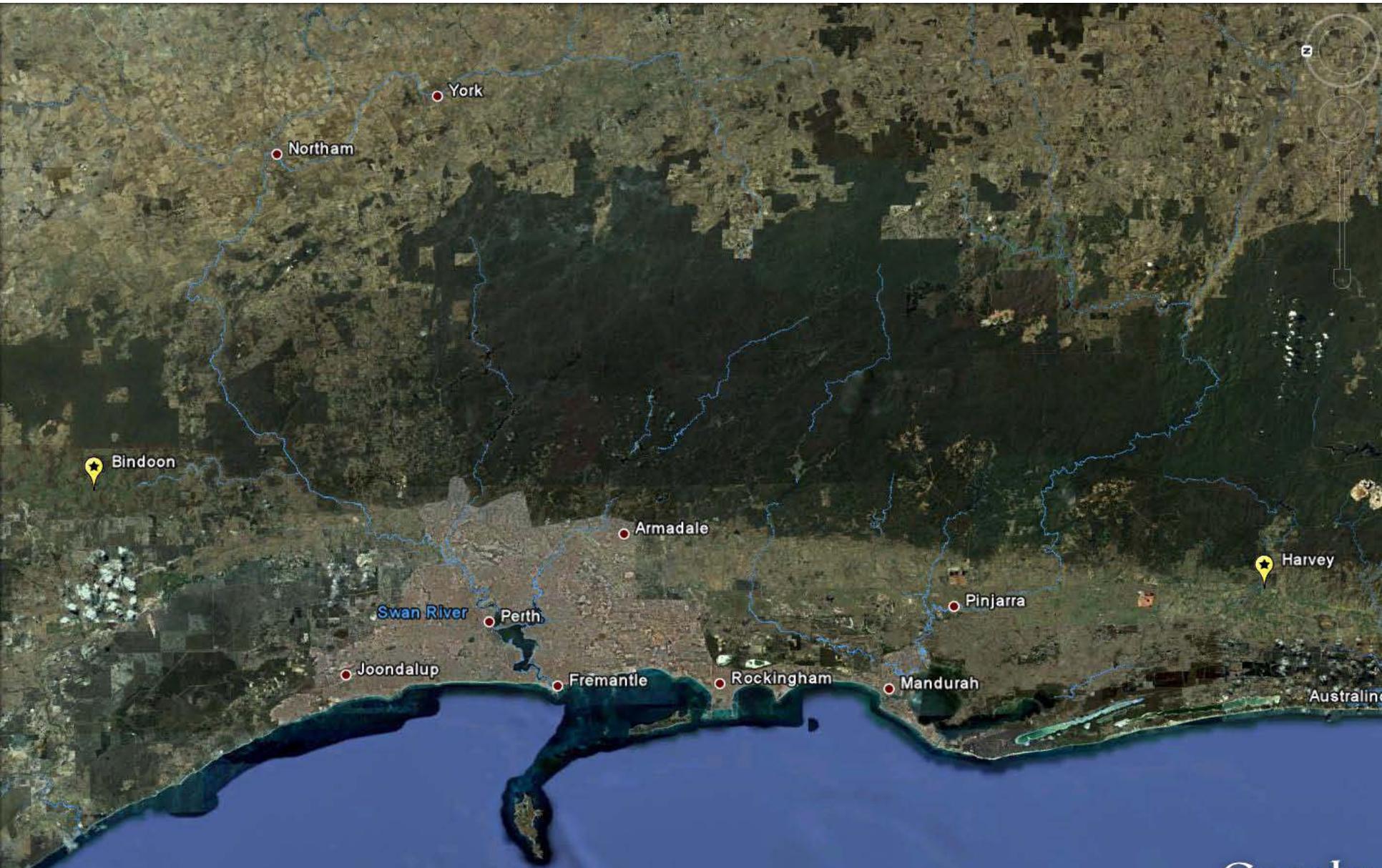
1. Clear case argument and solution
2. Strong and broad community support
3. Protection of landholder's rights
4. Coordinated and consistent management approach



# What We Found

**Outdoor recreation access relates to individual or group walking based activities (on land of various tenure) centred on responsible interaction within natural environments.**

Main Access Control	Public Access	Tenure	Land Area		Primary Legislative Responsibility	Main Relevant Legislation
			'000 km <sup>2</sup>	%		
		WA Total	2525.5	100.00%		
		Aboriginal and TSI	325.5	12.89%		
Lessee	Restricted to public roads	Leasehold	126.1	4.99%	Aboriginal Lands Trust WA Dept of Indigenous Affairs Aboriginal land councils	Native Title Act 1993 Aboriginal Heritage Act 1972 Aboriginal Affairs Planning Authority Act 1972 Occupier's Liability Act 1985, WA
Native title holder Traditional Owners	Restricted – permit required	Reserve	199.4	7.90%		
		Public Land	1095	43.36%		
WA DEC	Allowed – with some exceptions	Conservation reserve	178.5	7.07%	WA DEC Conservation Commission	Conservation & Land Management Act 1984 Environmental Protection Act 1986 Swan River Trust Act 1988 Swan & Canning River Management Act 2006 Wildlife Conservation Act 1950 Occupier's Liability Act 1985, WA
WA DEC	Allowed	Unallocated crown land	821.5	32.53%	WA DEC Dept of Regional Development and Lands	Land Administration Act 1997 Occupier's Liability Act 1985, WA
Depends on use designation	Allowed	Other crown land	44.6	1.77%	Dept of Regional Development and Lands	Land Administration Act 1997 Occupier's Liability Act 1985, WA
WA DEC	Allowed	Forestry reserve	34.8	1.38%	WA DEC Conservation Commission Forest Products Commission	Conservation & Land Management Act 1984 Forest Products Act 2000 Occupier's Liability Act 1985, WA
Water Corporation (WA)	Restricted	Water reserve	9	0.36%	WA Dept of Water Water Corporation (WA)	Country Areas Water Supply Act 1947 Land Drainage Act 1925 Metropolitan Water Supply Sewerage & Drainage Act 1909 Rights in Water & Irrigation Act 1914 Waterways Conservation Act 1976 Occupier's Liability Act 1985, WA
Cmnwlth Dept of Defence	Not Allowed	Defence land	6.3	0.25%	Cmnwlth Dept of Defence	Defence Act 1903 Lands Acquisition (Defence) Act 1968 Occupier's Liability Act 1985, WA
Mine lease holder	Restricted	Mining reserve	0.4	0.02%	WA Dept of Mines and Petroleum	Petroleum and Geothermal Energy Resources Act 1967 WA Mining Act 1978 Occupier's Liability Act 1985, WA
		Private Land	1105	43.75%		
Land owner	Not allowed	Freehold	205.1	8.12%	Local Government WA Dept of Planning WA Planning Commission	Planning and Development Act 2005 Occupier's Liability Act 1985, WA
Pastoral lessee	Restricted to public roads	Crown Leasehold	899.9	35.63%	WA Dept of Regional Development and Lands Pastoral Lease Board	Land Administration Act 1997 Occupier's Liability Act 1985, WA



56 km

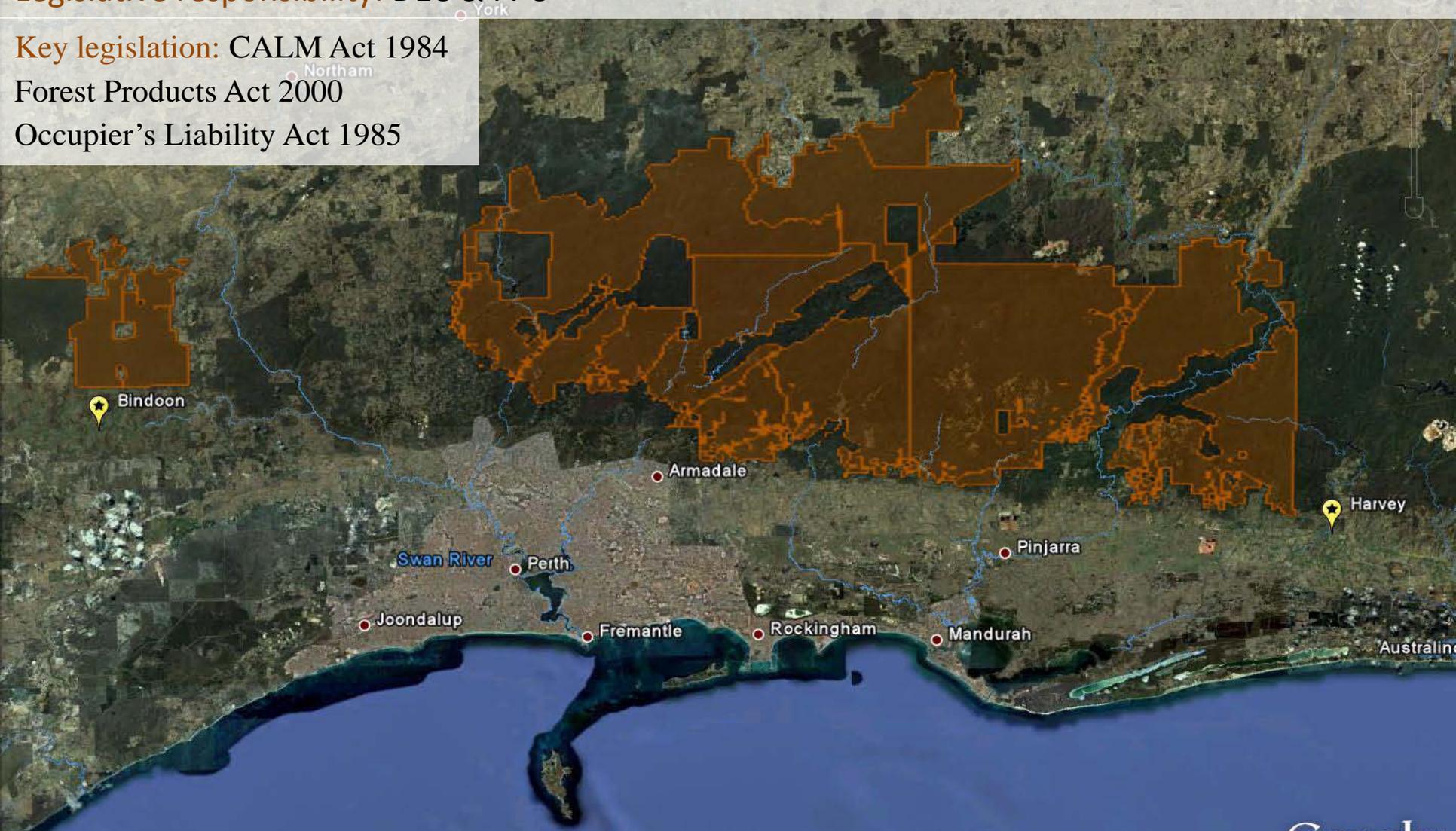
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# Forestry / Timber reserves

Total Area: 34,800 km<sup>2</sup> WA land area: 1.4% Public Access: Allowed Access management: DEC  
Legislative responsibility: DEC & FPC

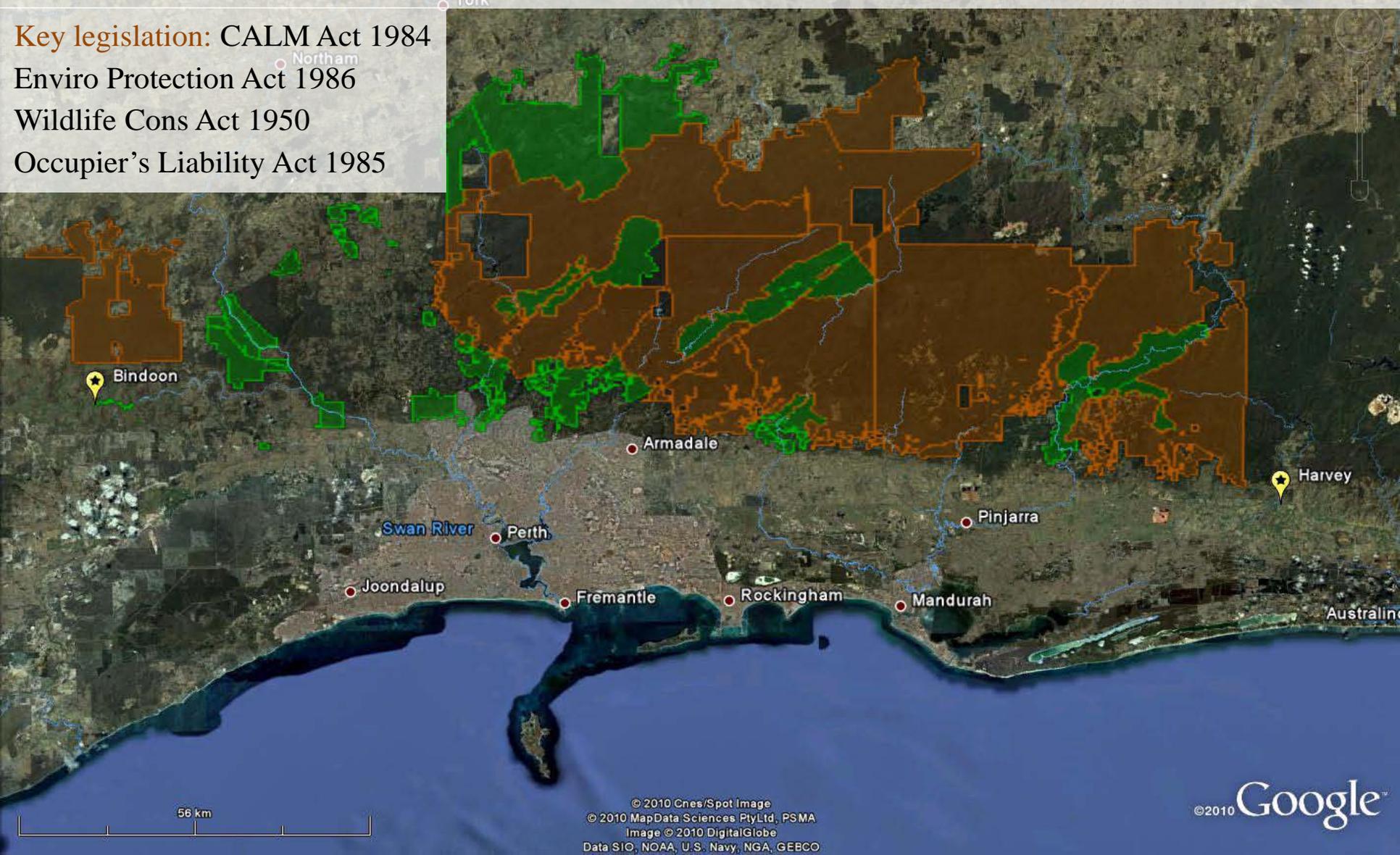
Key legislation: CALM Act 1984  
Forest Products Act 2000  
Occupier's Liability Act 1985



# Conservation reserves

Total Area: 178,500 km<sup>2</sup> WA land area: 7.1% Public Access: Allowed Access management: DEC  
Legislative responsibility: DEC & Cons Commission

Key legislation: CALM Act 1984  
Enviro Protection Act 1986  
Wildlife Cons Act 1950  
Occupier's Liability Act 1985



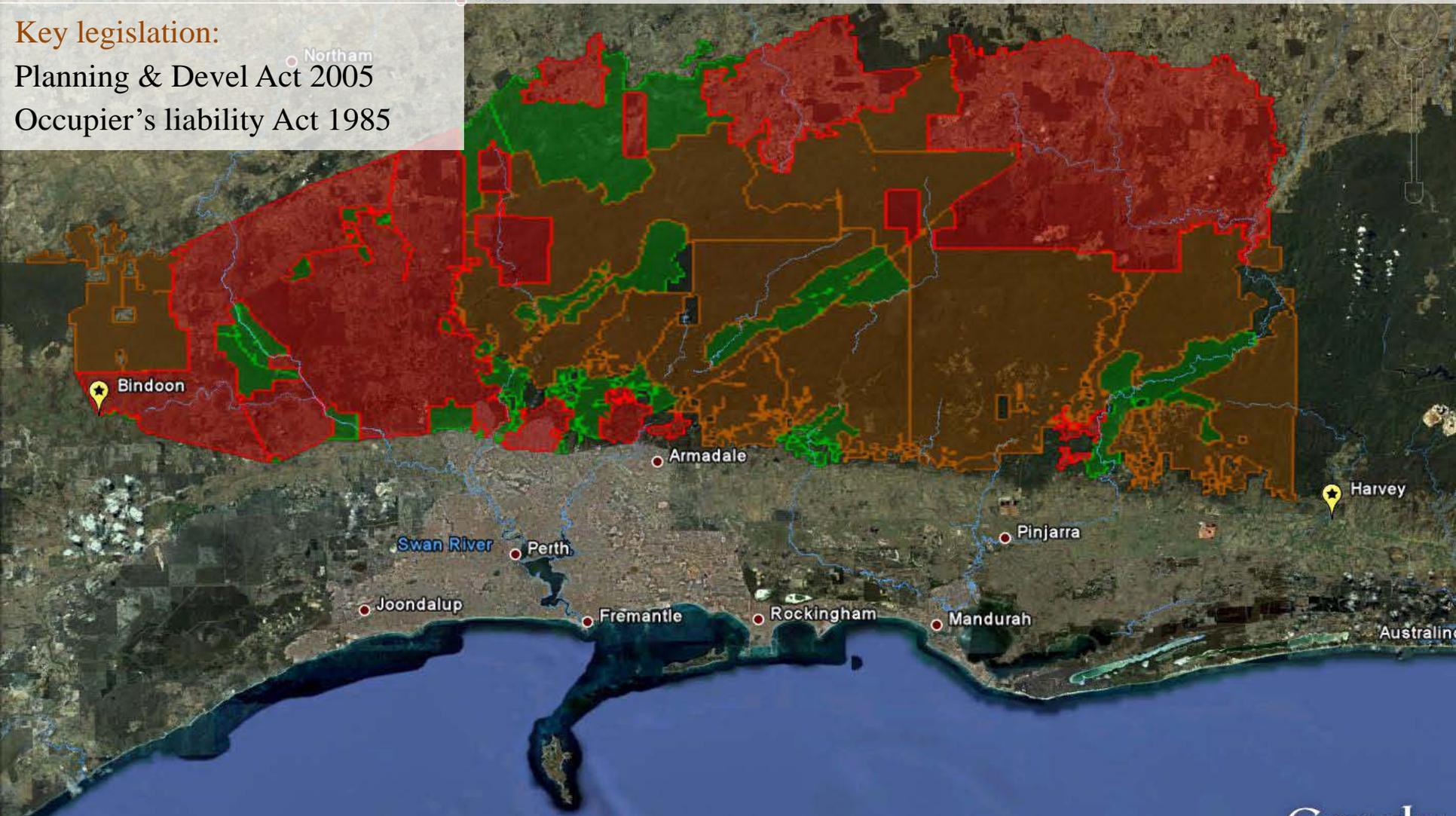
# Freehold (Private Land)

Area: 205,100 km<sup>2</sup> WA area: 8.2% Public Access: Not allowed Access management: owner  
Legislative responsibility: local gov., Planning Commission, Dept Planning

## Key legislation:

Planning & Devel Act 2005

Occupier's liability Act 1985



# Mining Reserve

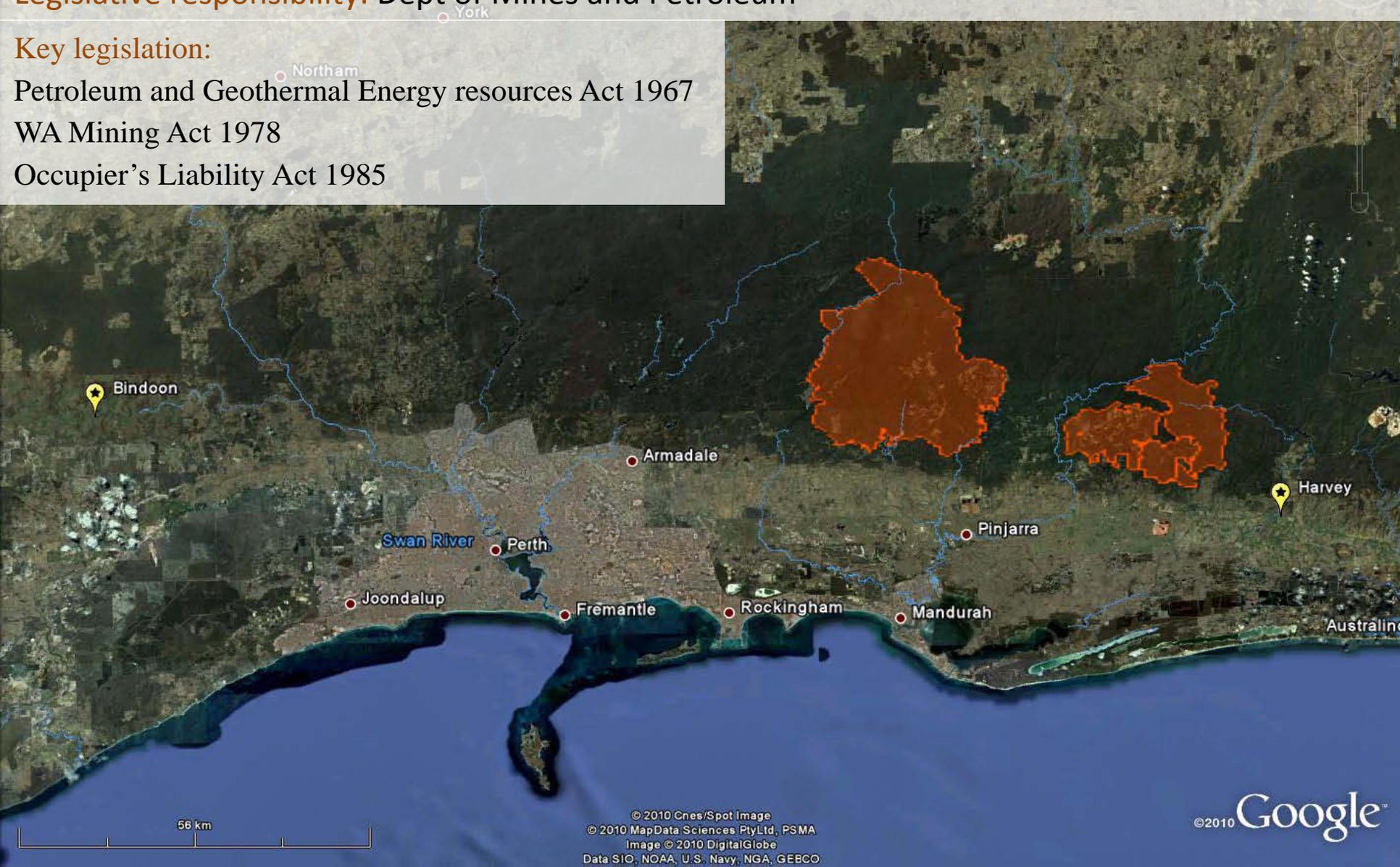
Area: 400 km<sup>2</sup> WA area: 0.016% Public Access: Not allowed Access management: lease holder  
Legislative responsibility: Dept of Mines and Petroleum

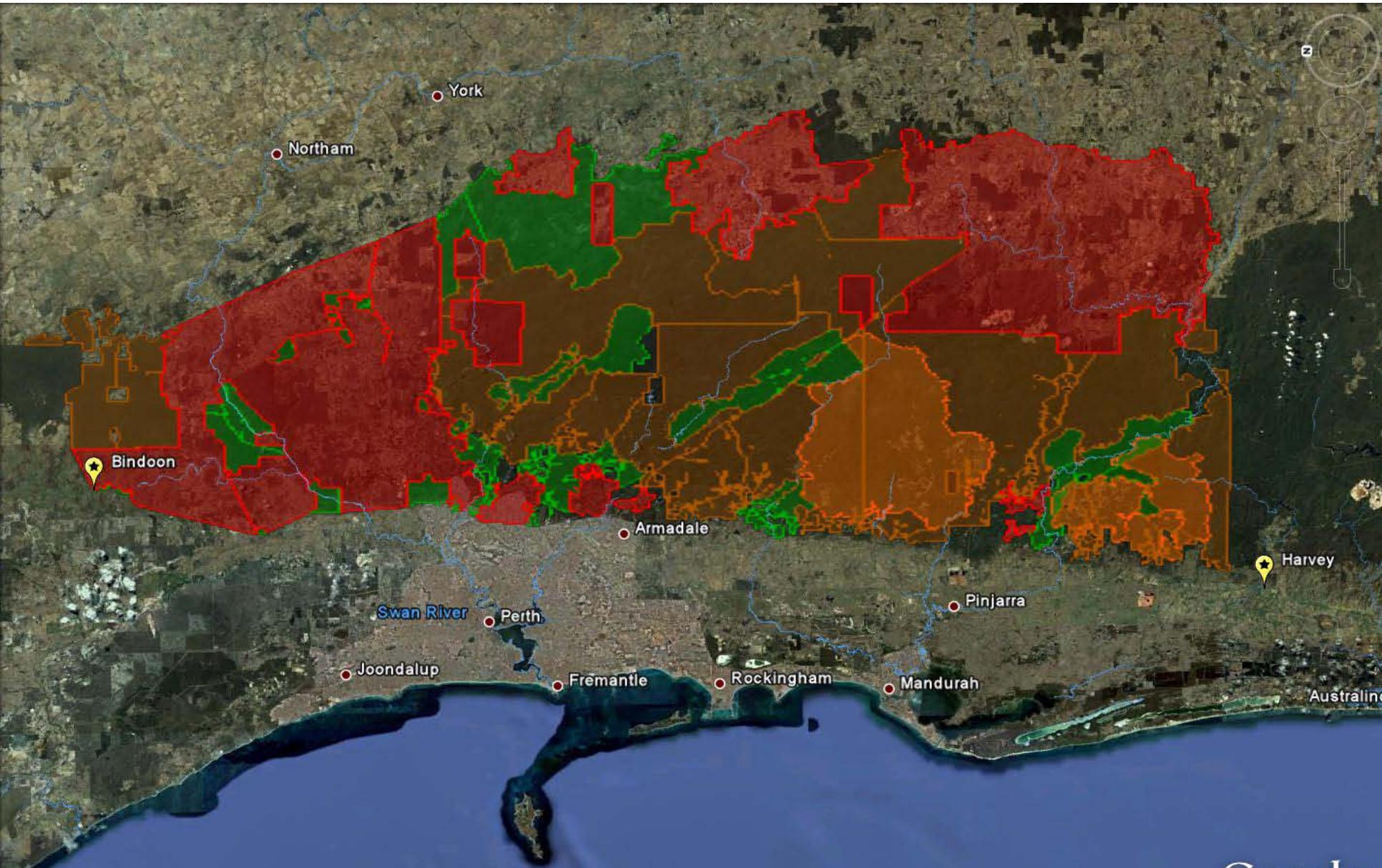
## Key legislation:

Petroleum and Geothermal Energy resources Act 1967

WA Mining Act 1978

Occupier's Liability Act 1985





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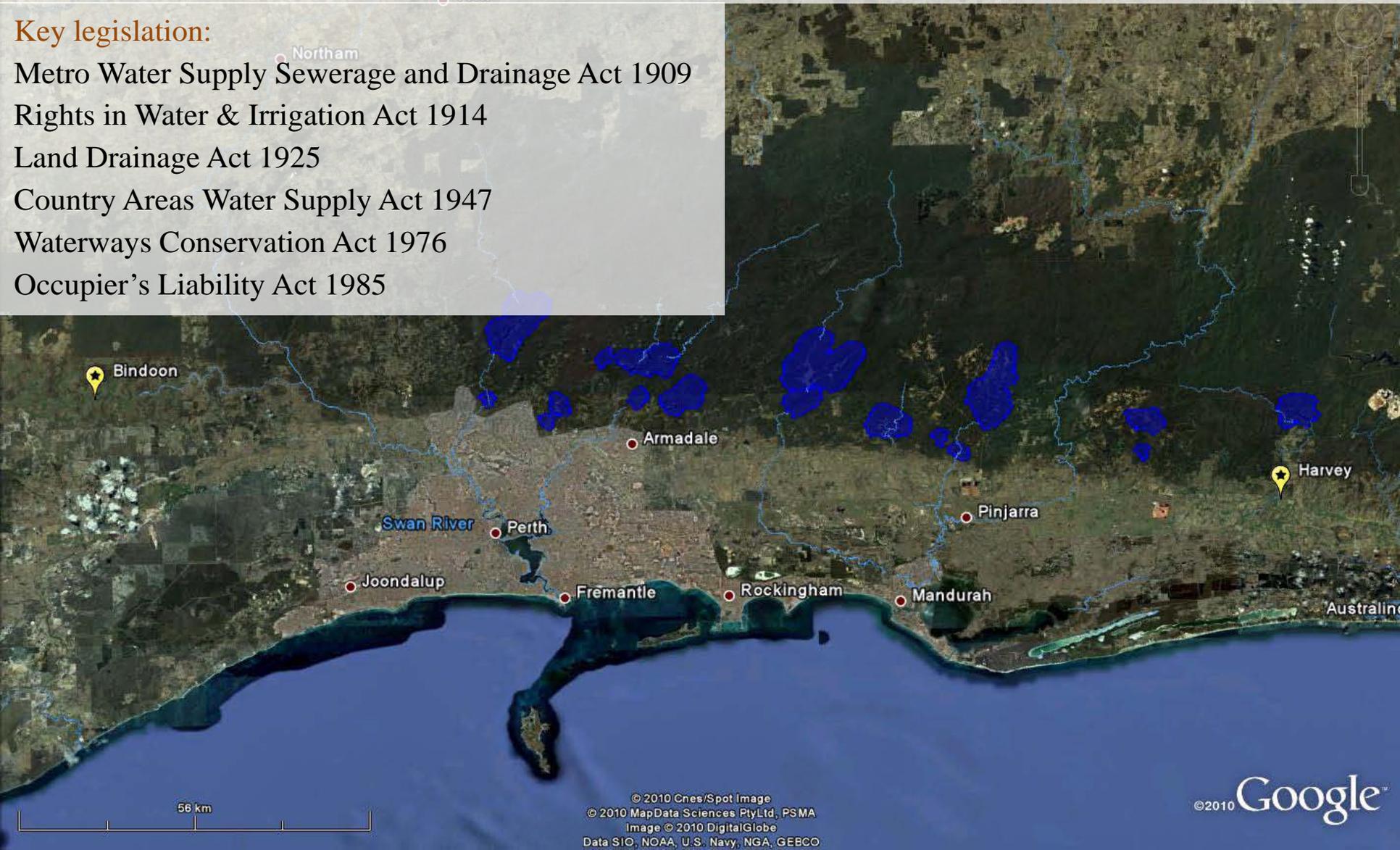
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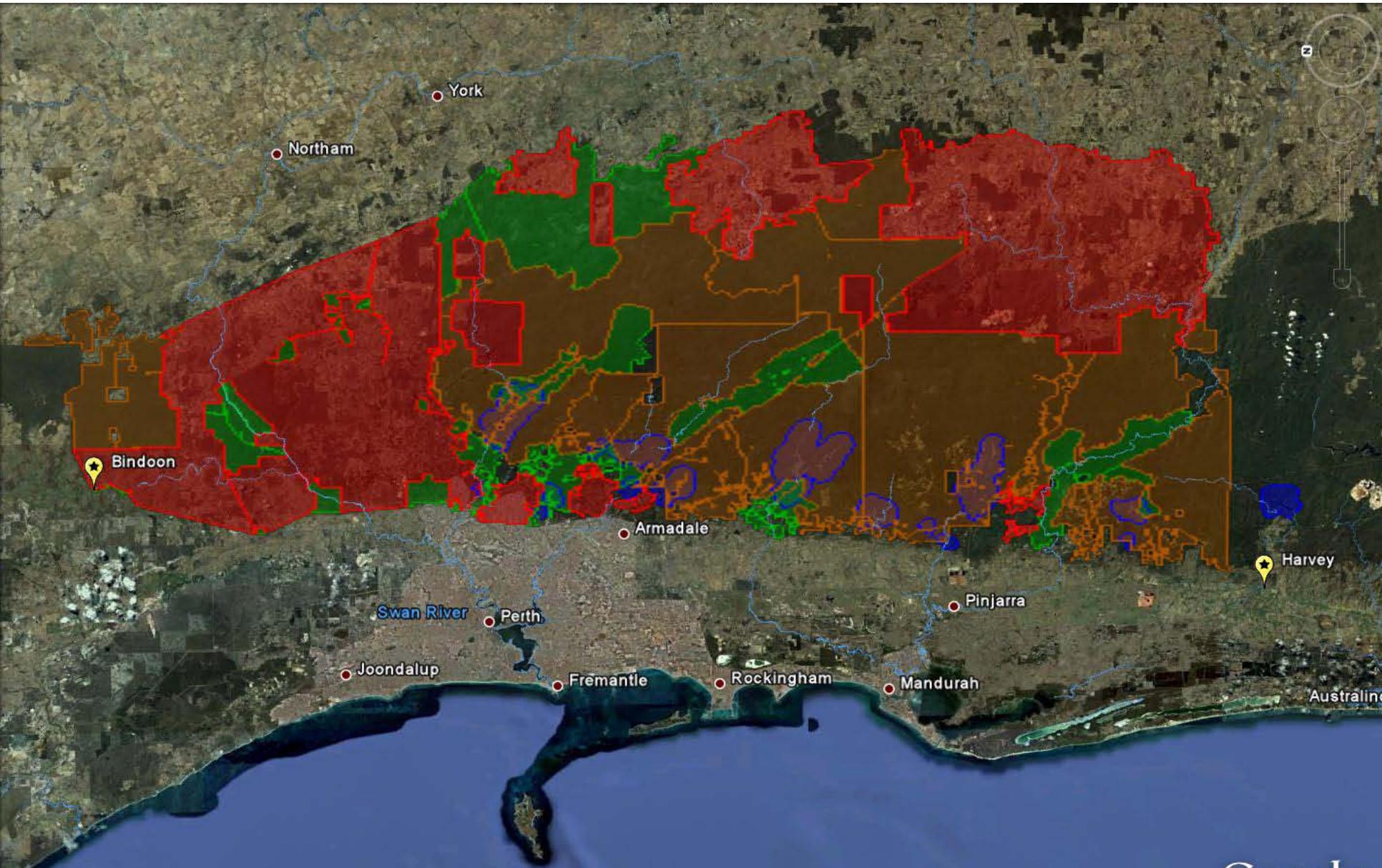
# Water Reserve

Area: 9000 km<sup>2</sup> WA area: 0.36% Public Access: Not allowed Access management: Water Corp  
Legislative responsibility: Dept of Water, Water Corp.

## Key legislation:

Metro Water Supply Sewerage and Drainage Act 1909  
Rights in Water & Irrigation Act 1914  
Land Drainage Act 1925  
Country Areas Water Supply Act 1947  
Waterways Conservation Act 1976  
Occupier's Liability Act 1985





56 km

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# Disease Risk Area (DRA)

Area: 2000 km<sup>2</sup> WA area: 0.08% Public Access: Restricted or not allowed  
Access management: DEC Legislative responsibility: DEC, Cons Commission

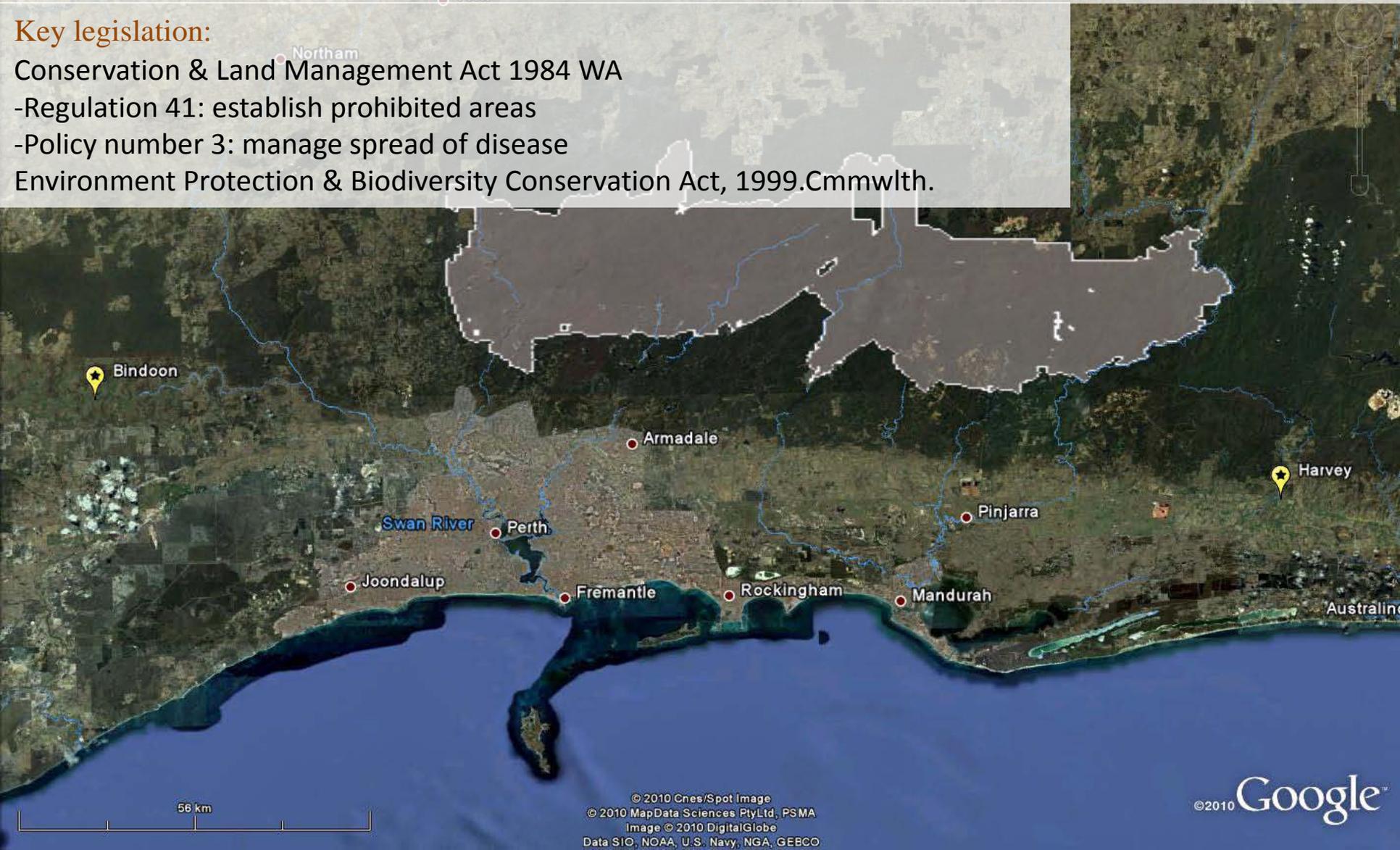
## Key legislation:

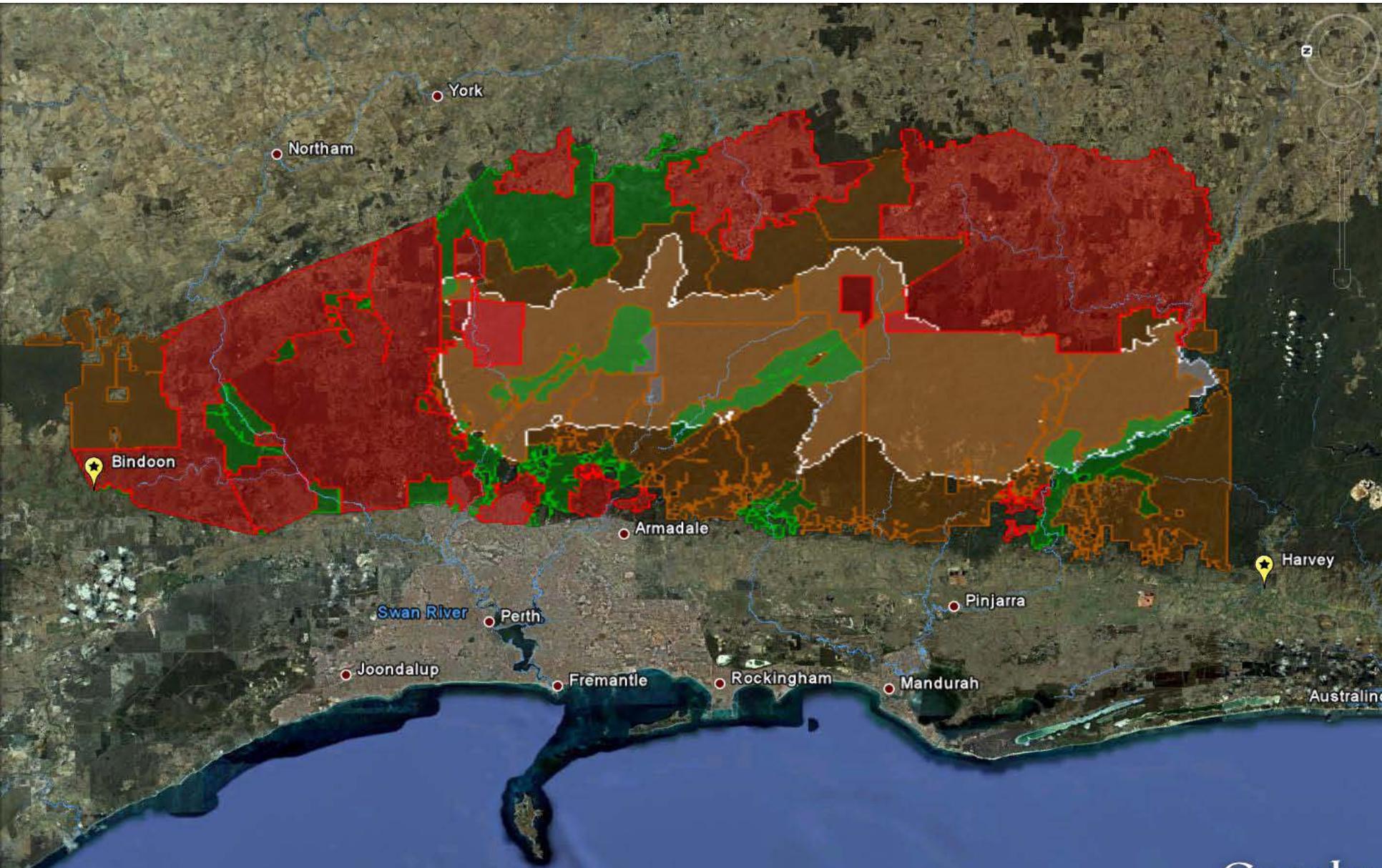
Conservation & Land Management Act 1984 WA

-Regulation 41: establish prohibited areas

-Policy number 3: manage spread of disease

Environment Protection & Biodiversity Conservation Act, 1999.Cmmwlth.



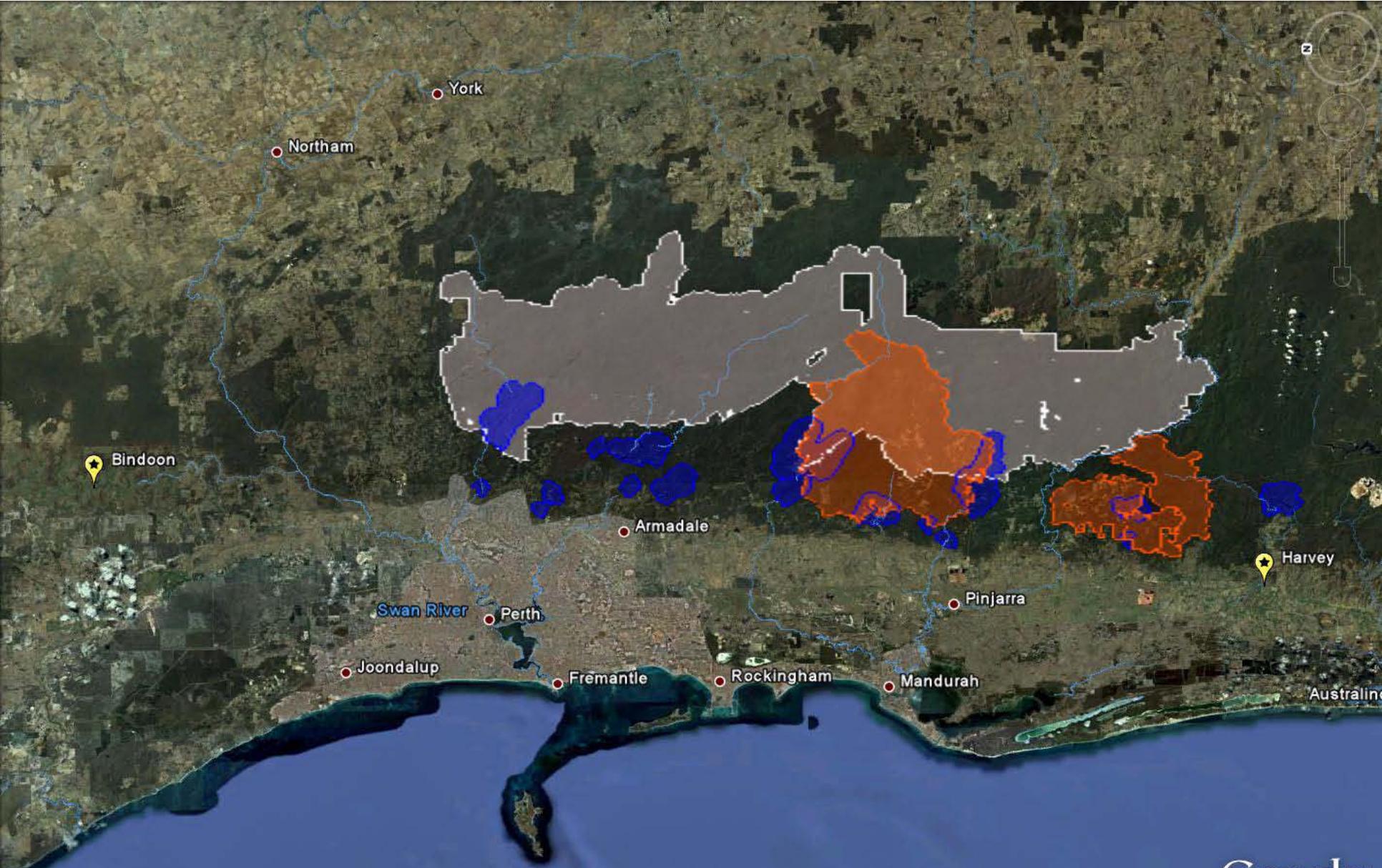


56 km

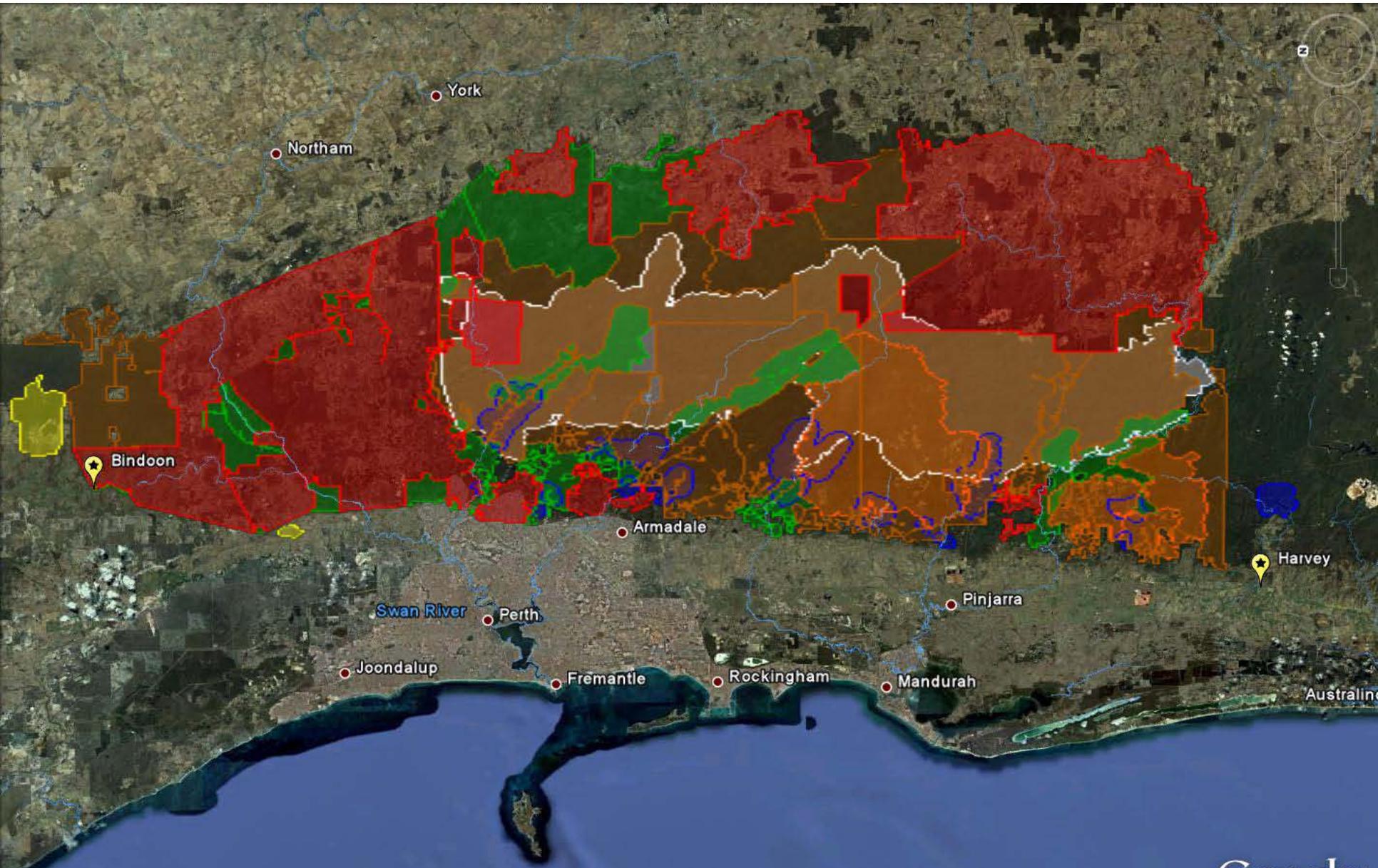
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# Management Overlays



# Management Overlays and Tenures





# Some Key Points

## Issues for WA

- Most land public and technically accessible
- Access mainly determined by often overlapping management regimes
- These can change, sometimes at short notice
- Sometimes managers are unclear who has responsibility for access management



# Some Key Points

## Issues for WA

- Complexity of legislation and management creates uncertainty
- Potential for sudden or gradual changes in access rights creates uncertainty
- Uncertainty negatively impacts on quality of experiences
- Need for a coordinated approach to land management and recreation access