

CLEARING OF NATIVE VEGETATION IN WESTERN AUSTRALIA

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Extensive land clearing has taken place in Australia since the arrival of the European settlers (Squelch, 2007). Until the emergence of the mineral boom in the 1960s, agriculture was the major primary industry that could provide significant wealth for WA (Australian Greenhouse Office, 2000) and along with the establishment of settlement/urban development necessitated the clearing of land.

The clearing of native vegetation has contributed to a decline in biodiversity and an increase in problems such as salinity and soil erosion (Squelch, 2007). In July 2004, as a result of these environmental factors and following highly significant unauthorisation clearing event, amendments were made to the Environmental Protection Act 1986 (the EP Act) and the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (the Regulations) brought into effect. These changes introduced a number of reforms to establish more stringent controls for the clearing of native vegetation.

The laws apply to private and public lands throughout Western Australia and requires that any person clearing native vegetation must hold a Native Vegetation Clearing Permit (NVCP), unless the clearing is cover by an exempt purpose.

What is Clearing?

Clearing is defined (in the Regulations) as the:

- a) Killing or destruction of; or
- b) Removal of; or
- c) Severing or ringbarking of trunks or stems of; or
- d) Doing of any other substantial damage to:
- e) Some or all of the native vegetation in an area.



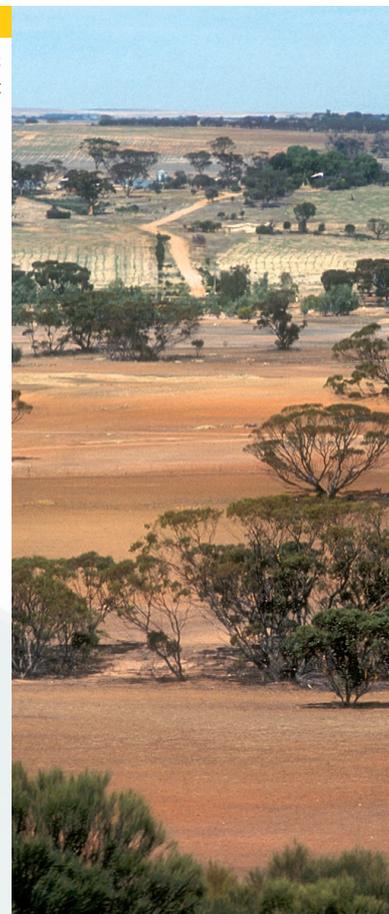
With Native vegetation being defined as indigenous aquatic or terrestrial vegetation, including dead vegetation.

Clearing Permits: Do I need one? Do Exemptions Apply?

If you intend on clearing native vegetation you will need to apply for a permit, or otherwise an exemption must apply. There are also a number of exemptions that apply to reduce red tape for proponents and administration for government. In 2014, following long-standing complaints from the farming sector, the regulations were relaxed to allow for greater clearing within the exemptions.

Whilst full details of exemptions can be found in Schedule 6 of the EP Act and the Regulations, examples of common exceptions from obtaining an NVCP include:

- Clearing assessed under Part IV of the EP Act;
- Exploration on Mining Act tenure cover by a Programme of Work;



Clearing Permits

If you intend on clearing native vegetation you will need to apply for a permit, or otherwise an exemption must apply.



- Low Impact Mining - Clearing of up to 10ha per financial year for clearing authorised under the Mining Act 1978 for activities as defined in clause 2 (2) of schedule 1 of the Regulations;
- Farming – clearing of land that was lawfully cleared within the 20 years prior; and
- Clearing for any of the following, which combined do not exceed 5ha per financial year:
 - ◊ construction of a building, collecting firewood, obtaining fencing or farming material, woodwork, fence lines, vehicular tracks, walking tracks and isolated trees.

It should be noted that whilst an exemption may apply other approvals may be required prior to the commencement of clearing and thus a full legal review should be undertaken prior to commencing any new development or change in land use.

For all other activities that do not fall under the exemptions then an application for an NVCP will be required.



10 clearing principles:

Native vegetation should not be cleared if:

- a) It comprises a high level of biological diversity;
- b) It compromises the whole or part of, or is necessary for the maintenance of, a significant habitat for fauna indigenous to WA;
- c) It includes, or is necessary for the continued existence of, rare flora;
- d) It comprises the whole or a part of, or is necessary for the maintenance of a threatened ecological community;
- e) It is significant as a remnant of native vegetation in an area that has been extensively cleared;
- f) It is growing in, or in association with, an environment associated with a water-course or wetland;
- g) The clearing of the vegetation is likely to cause appreciable land degradation;
- h) The clearing of native vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area;
- i) The clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water;
- j) The clearing of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.



Applying for an NVCP

The administration of the EP Act and EP Regulations is managed by the Department of Water and Environmental Regulation (DWER), however the Department of Mines, Industry Regulation and Safety (DMIRS) has been delegated authority under the Act for the administration of applications to clear native vegetation for mineral or petroleum activities.

To obtain an NVCP, the proponent is required to compile a detailed submission in a prescribed form, including:

Details of the programme;

- Receiving environment and values, and flora survey information;
- Addressing the 10 clearing principles.

Flora survey information must be to a defined standard and consider seasonality.

There are two types of clearing permit that can be applied for:

- Area Permit – to clear a defined area of land in a specified time frame.
- Purpose Permit – clear a number of different areas, for different purposes over an extended period. Generally approved for a default period of 5 years.



What should be Considerations When Clearing

Consideration during clearing activities should be given to the following:

- Minimising clearing footprint where possible;
- Stockpiling of vegetation for use in rehabilitation activities; and
- Avoidance of known indigenous and non-indigenous heritage, priority flora/vegetation and other areas of high environmental value.

It is also important for proponents to maintain good internal record systems for clearing (e.g. internal permitting, GIS) and reconciliation processes between what area is applied for and ultimately cleared, to ensure that clearing limits have not been breach, for both exemptions and granted permits. This information is also important for mining companies that are required to report clearing as part of the Mining Rehabilitation Fund.

Additional information related to the Clearing of Native Vegetation can be found on the following government websites:

- Department of Water and Environmental Regulation – www.dwer.wa.gov.au
- Department of Mines, Industry Regulation and Safety – www.dmirs.wa.gov.au



If you or your company need assistance developing or reviewing native vegetation clearing applications, please contact Integrate Sustainability on 08 9468 0338 or enquiries@integratesustainability.com.au.

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References

- Australian Greenhouse Office. (2000). *Land Clearing: A Social History*.
Squelch, J. (2007). Land Clearing Laws in Western Australia. *The Agricultural Industry, Volume 9*.



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