



# **A guide to grazing of native vegetation**

*under Part V Division 2 of the Environmental Protection Act 1986*

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## Purpose

This guideline sets out the requirements of the *Environmental Protection Act 1986* (EP Act) in relation to the grazing of native vegetation, including when grazing of native vegetation is clearing for the purposes of the Act. This guideline applies to all grazing of native vegetation on lands in Western Australia.

The information provided is to be used in conjunction with existing statutes, regulations and industry guidelines relevant to grazing.

## Introduction

Grazing of native vegetation is a common practice undertaken by farmers and pastoralists across Western Australia.

This guideline is intended to assist those landowners who allow their livestock to graze native vegetation to:

- understand the requirements that relate to grazing that is clearing under the EP Act; and
- provide guidance on when grazing constitutes substantial damage to native vegetation and is therefore clearing for the purposes of the EP Act.

## Legislation

### *Environmental Protection Act 1986*

Under section 51C of the EP Act, clearing of native vegetation is an offence unless it is done under the authority of a clearing permit or an exemption applies.

There are two types of exemptions:

**Exemptions for low impact land management practices:** Prescribed in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (Clearing Regulations), these exemptions do not apply within environmentally sensitive areas (ESAs) declared by the Minister for Environment under section 51B of the EP Act.

ESAs are intended to prevent incremental degradation of important assets such as declared rare flora, threatened ecological communities or high value wetlands. ESAs primarily adopt areas established under other legislation (for example, areas covered by Environmental Protection Policies made under the EP Act, Ramsar convention wetlands or World Heritage properties listed under the *Environment Protection and Biodiversity Conservation Act 1999*), or based on Government endorsed policies and documents such as Bush Forever. ESAs can be viewed on Landgate's Shared Land Information Platform (SLIP) viewable through the WA Atlas, with instructions available at [www.der.wa.gov.au/nvp](http://www.der.wa.gov.au/nvp).

**Exemptions for clearing authorised under a written law:** Listed in Schedule 6 of the EP Act, these exemptions apply regardless of whether the area is within an ESA.

Further information on exemptions is contained in [Guide 1 – A Guide to the Exemptions and Regulations for Clearing Native Vegetation](#).

Further information on ESAs is contained in [Fact Sheet 24 : Environmentally Sensitive Areas](#).

### **Exemptions for grazing of native vegetation under the EP Act**

There are two primary exemptions that apply to grazing:

- Clearing caused by the grazing of stock on land under a pastoral lease is exempt under Schedule 6, provided that the grazing is not in breach of the *Land Administration Act 1997*, the pastoral lease, or any relevant condition set or determination made by the Pastoral Lands Board.
- Clearing of land that was lawfully cleared within the preceding 20 years is exempt under item 14 regulation 5 of the Clearing Regulations, provided that the land has been used as pasture or for cultivation or forestry within those 20 years, and the clearing is only to the extent necessary to enable the land to be used to the maximum extent it was used in those 20 years. This exemption does not apply within ESAs as described above.

### **What is native vegetation?**

Sections 3A and 51A of the EP Act and regulation 4 of the Clearing Regulations define “**native vegetation**” as:

indigenous aquatic or terrestrial vegetation.

Native vegetation does not include vegetation that was intentionally sown, planted or propagated unless –

- (a) that vegetation was sown, planted or propagated as required under this Act or another written law; or
- (b) that vegetation is of a class declared by regulation to be included in this definition.

Intentionally sown, planted or propagated vegetation is defined in regulations as native vegetation if the planting was funded (wholly or partly) by a person who was not the owner of the land for the purpose of biodiversity conservation or the management of salinity, erosion, soil acidity or waterlogging; or where the intentionally planted vegetation is subject to a binding agreement, for example a conservation covenant or agreement to reserve under the *Soil and Land Conservation Act 1945*.

## *What is clearing?*

Section 51A of the EP Act defines “**clearing**” as:

the killing or destruction of; or

- (a) the removal of; or
- (b) the severing or ringbarking of trunks or stems of; or
- (c) the doing of any other substantial damage to,

some or all of the native vegetation in an area, and includes the draining or flooding of land, the burning of vegetation, the grazing of stock, or any other act or activity, that causes -

- (d) the killing or destruction of; or
- (e) the severing of trunks or stems of; or
- (f) any other substantial damage to,

some or all of the native vegetation in the area.

It is therefore necessary to determine when grazing causes substantial damage, and is therefore clearing for the purposes of the EP Act.

## **Grazing and “substantial damage”**

In administering the EP Act, DER will apply the following guidance in determining whether or not the grazing of stock constitutes substantial damage and is therefore clearing:

Sustainable grazing at levels that are consistent with existing, historic grazing practices where such grazing does not result in significant modification of the structure and composition of the native vegetation is not considered to be clearing. By way of example, the Smiths rotate their sheep in the native vegetation on their property over the winter months for substitute fodder. The Smiths have undertaken this practice for many years. The same species of native vegetation regenerate each year and the composition and structure is substantially unchanged.

Grazing that involves the severing of stems or taking leaves or minor branches, but does not compromise the long term health of the native vegetation, is not considered to be clearing.

The most visible indications of substantial damage caused by grazing to native vegetation include:

- death;
- ringbarking;
- excessive defoliation, root loss or uprooting.

Inadequately managed grazing of native vegetation can eventually lead to unwanted ecological changes such as loss of protective ground cover, reduced rain and nutrient

capture efficiency, and loss of species richness. These changes impact directly on soil structure and, lead to soil erosion, fouled watercourses, contaminated groundwater and weed invasion. In the longer term, indirect impacts such as reduced productivity, biodiversity, and ecosystem services provided by native vegetation and fauna populations may become evident.

## More information

If you intend to graze stock on native vegetation and are uncertain whether a clearing permit is required, you are encouraged to contact DER on (08) 6467 5020 or visit [www.der.wa.gov.au/nvp](http://www.der.wa.gov.au/nvp).

For further information on agriculture and grazing please contact the Department of Agriculture and Food WA on (08) 9368 3333.

For further information on the management and protection of water, please contact the Department of Water on (08) 6364 7600.