

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Inquiry into Private Property Rights

Question on Notice

Question B1 Hon Kyle McGinn MLC to Mr Mike Rowe, Director General.

Is there a policy for community consultation when changing water allocation plans?

Answer:

Yes. The former Department of Water's *Water allocation planning in Western Australia: A guide to our process 2011* outlines how community consultation is a critical part of all stages of water allocation planning.

Consultation throughout the process of developing or altering a plan also involves local water resource management or water advisory committees where these are in place. Once a draft plan is developed, it is released for public comment. Submissions on the draft plan are invited and used to inform the final plan.



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ADMINISTRATION**

Inquiry into Private Property Rights

Question on Notice

Question B2 Hon Kyle McGinn MLC to Ms Kelly Falkner, Executive Director Regulatory Services.

How many clearing permit applications did the Department of Water and Environmental Regulation receive in 2019 (financial year)?

Answer:

In 2018-19, the Department of Water and Environmental Regulation received 443 clearing permit applications.

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Inquiry into Private Property Rights

Question on Notice

Question B3 Hon Kyle McGinn MLC to Ms Kelly Falkner, Executive Director Regulatory Services.

How many clearing permit applications did the Department of Water and Environmental Regulation refuse in 2019 (financial year)?

Answer:

In 2018-19, the Department of Water and Environmental Regulation refused to grant 15 clearing permit applications.

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Inquiry into Private Property Rights

Question on Notice

Question B4 Hon Kyle McGinn MLC to Ms Kelly Falkner, Executive Director Regulatory Services.

It is an offence to clear an ESA without a clearing permit. Have there been any prosecutions under Section 51C since 2015?

Answer:

Section 51C of the *Environmental Protection Act 1986* (EP Act) makes it an offence to clear native vegetation, unless the clearing is done in accordance with a clearing permit or where an exemption applies.

ESAs are only relevant in the context of exemptions contained in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (Regulations).

Exemptions for clearing for low impact routine land management practices are prescribed in the Regulations, but these exemptions do not apply within an ESA.

Exemptions for clearing that is a requirement of a written law or authorised under certain statutory processes are contained in Schedule 6 of the EP Act. These exemptions do apply in ESAs.

It is an offence to clear in an ESA without a clearing permit, unless the clearing was exempt under Schedule 6 of the EP Act.

There have been eight prosecutions pursuant to section 51C since 2015 however none of these prosecutions were within ESAs.



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Question on Notice

Question B5 Hon Kyle McGinn MLC to Ms Kelly Falkner, Executive Director Regulatory Services.

What are the penalties in each of prosecution for clearing without a permit?

Answer:

2015-16 Tragen Pty Ltd – \$9 000
2016-17 Southregal Pty Ltd – \$56 000
SAWA Pty Ltd – \$40 000
2017-18 Michele Monte – \$22 000
2018-19 Kingstripe Pty Ltd – \$25 000
2019-20 Bias Holdings Pty Ltd – \$20 000
Ausmech Solutions Pty Ltd – \$20 000
Spent conviction – \$30 000

NOTE:

Section 51C - Unauthorised clearing of Native Vegetation

Maximum penalty \$500 000 for a body corporate and \$250 000 for an individual

Section 51J – Contravening clearing permit conditions

Maximum penalty \$125 000 for a body corporate and \$62 500 for an individual



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Question on Notice

Question B6 Hon Kyle McGinn MLC to Ms Kelly Falkner, Executive Director Regulatory Services.

How many people are currently under investigation for unauthorised clearing?

Answer:

As at 27 February 2020 there are currently 78 reports of alleged unauthorised native vegetation clearing under investigation.

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Inquiry into Private Property Rights

Question on Notice

Question B7 Hon Kyle McGinn MLC to Ms Kelly Falkner, Executive Director Regulatory Services.

Do any of the people affected contend that they were unaware that their land was an ESA? How many?

Answer:

Not all landowners of matters currently under investigation have been formally interviewed. However, of those people affected that have been interviewed none have contended that they were unaware that their land was an ESA.