



A guide to grazing, clearing and 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 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

This guideline is intended to assist those landowners whose livestock may have access to or are intending 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.

Exemptions for low impact land management practices are 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.

Exemptions for clearing authorised under a written law and listed in Schedule 6 of the EP Act 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](#).

Grazing that is clearing under the EP Act

There are two primary exemptions that apply to grazing that is clearing:

- 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 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:

1. 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 clearing.
2. 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.
3. Grazing that compromises the ability of native plants to recover and regrow causes substantial damage to native vegetation and is considered clearing.

Good grazing management should have regard to the important roles of native vegetation in ecosystem processes that affect soil, water, air quality and maintain diversity that has benefits for agricultural production systems.

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 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, 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.

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 6467 5020.

More information

If you have any questions about this guideline or are not sure if you can clear under a clearing exemption, you should contact DER on (08) 6467 5020 or visit 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.