



# Native vegetation clearing legislation in Western Australia

*Environmental Protection Act 1986*

## **Some facts from the State of the Environment report Western Australia draft 2006** (adapted from pp151-156, Environmental Protection Authority, Government of Western Australia):

\* *Broadscale clearing of native vegetation, both historic and current is a major threatening process affecting biodiversity in Western Australia.*

\* *The Wheatbelt region as a whole retains only 7% of its native vegetated area on average (in some areas remaining native vegetation was estimated to be as low as 1.8% in 2004).*

\* *The urban area of Perth has doubled since the 1970s and this has resulted in the clearing of large areas of native vegetation and fragmentation of that remaining.*

\* *Presently the main drivers of native vegetation clearing in WA are population and urban expansion in the South West, and expansion of the mining sector in the rest of the State.*

### **Summary of current responses**

*As well as regulating the clearing of native vegetation, other responses are also recommended including; an action plan (with the Commonwealth government), revegetation groups, regional natural resource management strategies, off-reserve conservation*

*(e.g. Bush Forever, the Roadside Conservation Committee, Land for Wildlife and Conservation Covenant programs), land use planning policy and local government (partnership projects and strategies).*

### **Implications**

*Native vegetation has already been cleared below safe ecological limits on some areas, especially the Wheatbelt and parts of the Swan Coastal Plain and South Coast; the salinity problem in the Wheatbelt and South West is one direct result. Further fragmentation, decline of condition and extinction is likely if clearing continues. Expansion of Perth suburbs and other towns all over the State will continue to drive clearing of native ecosystems. Clearing also negatively impacts on remnant vegetation by increasing edge effects, reducing the ability of animals to move between patches of suitable habitat, reducing colonisation ability of remaining plants, and increasing susceptibility to weed and Phytophthora dieback infestations. All community members benefit when native ecosystems are retained, as these ecosystems underpin the economy and society. Consequently all people have a role in preventing further clearing and protecting existing areas of native vegetation, not just landholders.*

## **Native vegetation legislation**

Regulation 4 of the *Soil and Land Conservation Regulations 1992* was repealed and replaced by amendments to the *Environmental Protection Act 1986* (EP Act) in 2004. Under this legislation, clearing is not generally permitted where the biodiversity values, land conservation and water protection roles of native vegetation would be significantly affected.

## **'Native vegetation' as defined in the EP Act and Regulations**

'Native vegetation' means indigenous aquatic or terrestrial vegetation, and includes dead vegetation unless that dead vegetation is of a class declared by regulation to be excluded from this definition but does not include vegetation in a plantation (Environmental Protection (Clearing of Native Vegetation) Regulations 2004, section 3(1));



'Native vegetation' has the meaning given by section 3(1) but 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 (EP Act Section 51A)

### **'Clearing' as defined in the EP Act**

Clearing means;

- (a) the killing or destruction of;
- (b) the removal of;
- (c) the severing or ringbarking of trunks or stems of; or
- (d) 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:
- (e) the killing or destruction of;
- (f) the severing of trunks or stems of; or
- (g) any other substantial damage to, some or all of the native vegetation in an area;

### **What are Environmentally Sensitive Areas?**

There are a number of Environmentally Sensitive Areas (ESAs) within Western Australia where exemptions in regulations do not apply. Section 51B of the EP Act allows the Minister to declare ESAs. To view ESAs visit the 'Native Vegetation Map Viewer' accessible at: [www.dec.wa.gov.au/nvc](http://www.dec.wa.gov.au/nvc) within the 'data' tab. If you want to clear native vegetation in an ESA, you should contact your local Native Vegetation Officer who will help you determine if you are exempt.

### **What is riparian vegetation?**

'Riparian vegetation' means the distinctive vegetation associated with a wetland or watercourse.

### **When do I require a permit?**

All clearing of native vegetation requires a permit unless it is exempt. There are exemptions for day-to-day activities that have a low environmental impact (refer to Fact Sheets 5, 6, 7 and 9). Exemptions do not apply in ESAs (refer above).

### **What are the 10 clearing principles?**

Under section 51O of the EP Act, the CEO must have regard to 10 clearing principles when deciding to grant, or refuse, a permit. The CEO must also have regard to planning instruments (such as town planning schemes) and other relevant matters. The 10 Principles, as specified in Schedule 5 of the EP Act, are listed below:

- (a) Native vegetation should not be cleared if it comprises a high level of biological diversity.
- (b) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia.
- (c) Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, rare flora.
- (d) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of a threatened ecological community.
- (e) Native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared.
- (f) Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.
- (g) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation.
- (h) Native vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area.
- (i) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water.
- (j) Native vegetation should not be cleared the clearing of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.

### **What if I clear without a permit?**

Refer to Fact Sheet 2 'Clearing Offences and Penalties' and Fact Sheet 3 'Compliance Inspections and Clearing Laws' for information about penalties and inspections.

## More information

**Fact Sheet 2: Clearing Offences and Penalties**

**Fact Sheet 3: Compliance Inspections and Clearing Laws**

**Fact Sheet 4: Complying with your Clearing Permit**

**Fact Sheet 5: Mining and petroleum activities**

**Fact Sheet 6: Fire prevention and control, collection of firewood and harvesting of wildflowers, seeds, sandalwood and timber**

**Fact Sheet 7: Clearing previously cleared land, grazing on and management of pastoral leases and Pastoral Lands Board requirements**

**Fact Sheet 8: Clearing in specific existing or potential Water Supply Catchments**

**Fact Sheet 9: When do I require a permit?**

**Fact Sheet 10: How do I apply for a clearing permit?**

## Legislation

This document is provided for guidance only. It should not be relied upon to address every aspect of the relevant legislation. Please refer to the *Environmental Protection Act 1986* and Environmental Protection (Clearing of Native Vegetation) Regulations 2004, available from the State Law Publisher. Free electronic copies are available from [www.slp.wa.gov.au](http://www.slp.wa.gov.au)

## Compliance assistance documents

Additional publications relating to clearing laws, clearing permits and application forms are available online from [www.dec.wa.gov.au/nvc](http://www.dec.wa.gov.au/nvc) or can be requested by phoning 9219 8744.

## Compliance advice

For advice on complying with your permit, or any other related matter, please contact DEC's Native Vegetation Conservation Branch on 9219 8744.

For permits related to mineral and petroleum activities contact Department of Mines and petroleum on 9222 3570.