



## Consultation summary

*Guideline: A guide to grazing and clearing of native vegetation under Part V Division 2 of the Environmental Protection Act 1986*

**Version: Final**

September 2015



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## Background

On 24 June 2015, the Department of Environment Regulation (DER) released the draft *Guideline: A guide to grazing and clearing of native vegetation under Part V Division 2 of the Environmental Protection Act 1986*. Comments were invited on any aspect of the draft guideline.

Consultation closed on 22 June 2015. This document summarises the submissions, key issues raised, and responses to these issues.

## Summary of consultation submissions

Four submissions were received in relation to the draft guideline. Key issues raised in the submissions were:

- the appropriateness of the title of the guideline;
- the role of the disclaimer and the need for landowners to seek their own legal advice;
- areas declared under the *Environmental Protection (Environmentally Sensitive Areas) Notice 2005* (ESA Notice), particularly defined wetlands, not representing native vegetation of environmental significance;
- legal definitions in the *Environmental Protection Act 1986* (EP Act) for native vegetation and clearing;
- the scope of exemptions in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*, especially for maintaining of areas as pasture and the time limit of 20 years; and
- the incorporation of references to drinking water source protection and water quality.

## Summary of responses to submissions

The final guideline includes a number of amendments that address or clarify key issues raised in the consultation.

- The title of the guideline will be amended to ensure it is clear that it applies only to clearing regulated under the EP Act as *Guideline: A guide to grazing of native vegetation under Part V Division 2 of the Environmental Protection Act 1986*.
- It is not DER's view or intention that landholders would ordinarily require additional legal advice. Where additional information on an issue is required, DER encourages landholders and applicants to contact the Department. It is noted that the judgement in *Ostrowski v Palmer* [2004] HCA 30 does not have the effect that the submitter states.

- There are four wetland categories included in the definition of defined wetlands under the ESA notice: wetlands listed under the Ramsar Convention; nationally important wetlands listed by the Commonwealth; conservation category wetlands in the geomorphic wetlands dataset; wetlands mapped in the Busselton-Walpole area; and certain wetlands mapped for Augusta to Walpole.

The Department of Parks and Wildlife is the lead agency for wetlands in Western Australia and custodian of wetland mapping. Further information on wetlands is available at [www.dpaw.wa.gov.au/management/wetlands](http://www.dpaw.wa.gov.au/management/wetlands). The Department of Parks and Wildlife has a protocol for updating the boundaries or management category of wetlands.

- The guideline provides information to assist landowners to understand the legal situation relating to grazing of native vegetation under the EP Act and regulations, and how DER administers the relevant provisions. It must be read in context of its scope, i.e. when grazing of native vegetation is considered substantial damage and therefore clearing for the purposes of the EP Act. Requests to amend either the EP Act or regulations are also beyond the scope of this guideline.
- The guideline has been amended to include references to drinking water source protection and water quality as appropriate.

## Consultation submissions

Four submissions were received as listed in Table 1.

**Table 1: Consultation submissions received**

Organisation
Midland Brick
Gingin Property Rights Group
Pastoralists and Graziers Association
Marked confidential (not published)