



Guideline

Title:	Applications for a permit to clear native vegetation relating to carbon farming projects
Published:	April 2022

1. Purpose

The Guideline: *Applications for a permit to clear native vegetation relating to carbon farming projects* provides guidance on matters to which the Chief Executive Officer (CEO) shall have regard when making decisions on applications for a permit to clear native vegetation under the *Environmental Protection Act 1986* (EP Act), where these applications intersect with a carbon farming project (Guideline).

2. Scope

Guidelines provide direction on how the department interprets and applies the legislation it administers.

Department guidelines are not mandatory considerations nor legally binding; rather, their purpose is to assist applicants to provide information in the best possible manner to ensure efficient and effective assessment of their applications.

This Guideline applies to clearing permit applications which wholly or partially intersect with a carbon farming project which has been registered under the Australian Government's Emissions Reduction Fund (ERF), received State eligible interest holder (EIH) consent and been issued Australian Carbon Credit Units (ACCUs).

3. Context

On 5 December 2019, the Government of Western Australia confirmed that it would provide State EIH consent for carbon farming projects using the Human Induced Regeneration (HIR) methodology undertaken on pastoral lease lands. There are a number of HIR projects within Western Australia's southern rangelands registered under the ERF.

HIR carbon farming captures carbon by changing land management practices (e.g. exclusion of livestock to facilitate the regeneration of native vegetation).



All carbon sequestration projects registered under the ERF have permanence obligations which require the maintenance of carbon stores for which ACCUs have been issued.

In determining whether to provide EIH consent, the State Government considers the impact of carbon farming projects on other land uses. While removal of grazing pressure is likely to improve the condition of native vegetation in an area, conservation significant flora are unlikely to colonise areas where they are not currently present. Any increased abundance of conservation significant flora would, on balance, tend to have the effect of lowering conservation significance.

The improved condition of native vegetation as a consequence of HIR carbon farming projects on pastoral lease lands will not generally increase the complexity of assessments or alter the likelihood that an application to clear native vegetation would be refused.

The State Government considers that carbon farming projects are unlikely to result in adverse outcomes for the development of resources or other projects and will contribute to improved native vegetation condition within pastoral regions.

4. Legislation

Clearing of native vegetation in Western Australia is regulated under Part V Division 2 of the EP Act and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. Under section 51C of the EP Act, the clearing of native vegetation is an offence unless done in accordance with a clearing permit or under an applicable exemption, is of a kind prescribed for the purposes of this section and is not done in an environmentally sensitive area, or the Chief Executive Officer (CEO) has determined that a permit is not required (*Environmental Protection Amendment Act 2020*, section 51DA referral process once proclaimed).

In making a decision on a clearing permit application, the CEO shall have regard to the clearing principles and any planning instrument or other matter that the CEO considers relevant (section 51O of the EP Act).

The ERF is enacted through the Commonwealth *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act). The CFI Act allows proponents to register projects under the ERF in order to generate ACCUs for emissions reductions and also provides for the Clean Energy Regulator to declare a carbon maintenance obligation (CMO) over a HIR project.

5. Outcome

This Guideline seeks to clarify for applicants how the presence of a registered carbon farming project will be considered through the assessment of a clearing permit application.



6. Guidance

The presence of a registered carbon farming project within an area of native vegetation proposed for clearing under a clearing permit application is a relevant consideration for the CEO in three possible ways:

1. As a relevant factor in determining current and future native vegetation condition and structure;
2. As a matter raised through a public submission relating to the clearing permit application to be considered by the CEO under sections 51E(4) and (5) of the EP Act; and
3. As a relevant “other matter” to be considered by the CEO under section 51O(4) of the EP Act.

6.1 Consideration of vegetation condition

The following relates to the considerations of the CEO in relation to native vegetation condition:

- in determining a clearing permit application which proposes clearing within a carbon farming project area, the CEO will consider the condition of native vegetation, based on best available information or through site inspection, at the time the application is made and the assessment is undertaken.

6.2 Consideration of public submissions and other relevant matters

The following relates to the considerations of the CEO in relation to public submissions or “other matters”:

- in determining a clearing permit application which proposes clearing within a carbon farming project area, the CEO will consider the existence of a registered carbon farming project as a relevant ‘other matter’, as required under section 51O(4) of the EP Act
- in considering a clearing permit application, the CEO must take into account any public submission received before determining the application as required under section 51E(4) and (5) of the EP Act
- requirements for the [relinquishment of ACCUs](#) where there is a complete or partial reversal of the sequestration is managed under the CFI Act (section 89 of the CFI Act). Where ACCUs for a project are required to be relinquished, the CEO would unlikely consider the presence of the carbon farming project to be a relevant matter in the assessment of a clearing permit application.



Document implementation

This guideline comes into effect on the day it is published. Applications received after publication will be assessed in accordance with the information contained herein.

Related documents

Non-department documents	
Author	Title
WA state parliament	Environmental Protection Act 1986
WA state parliament	Environmental Protection (Clearing of Native Vegetation) Regulations 2004
WA state parliament	Mining Act 1978
Commonwealth parliament	Carbon Credits (Carbon Farming Initiative) Act 2011
WA Government	<i>Policy Positions – State Eligible Interest Holder Consent for Human-Induced Regeneration Carbon Sequestration Projects on Pastoral Lease Lands</i>
WA Government	<i>Human-Induced Regeneration Carbon Farming and the Resources Sector</i>
WA Government	<i>Landmark decision to allow carbon farming on pastoral lands</i>
DMIRS	<i>Carbon farming on pastoral lease lands</i>

Department documents	
Author	Title

Custodian and review

The currency of this document will be continuously evaluated, and reviewed no later than three years from the date of issue or sooner as required.

Document details	
Lead group (custodian)	Regulatory Services
Current version	1.0
Corporate file number	



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April 2022

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Acknowledgements

The Department of Water and Environmental Regulation would like to thank the following for their contribution to this publication.

For more information about this report, contact the Department of Water and Environmental Regulation

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