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# Environmental Compliance

Practical Tenement Management WA



# Outcomes

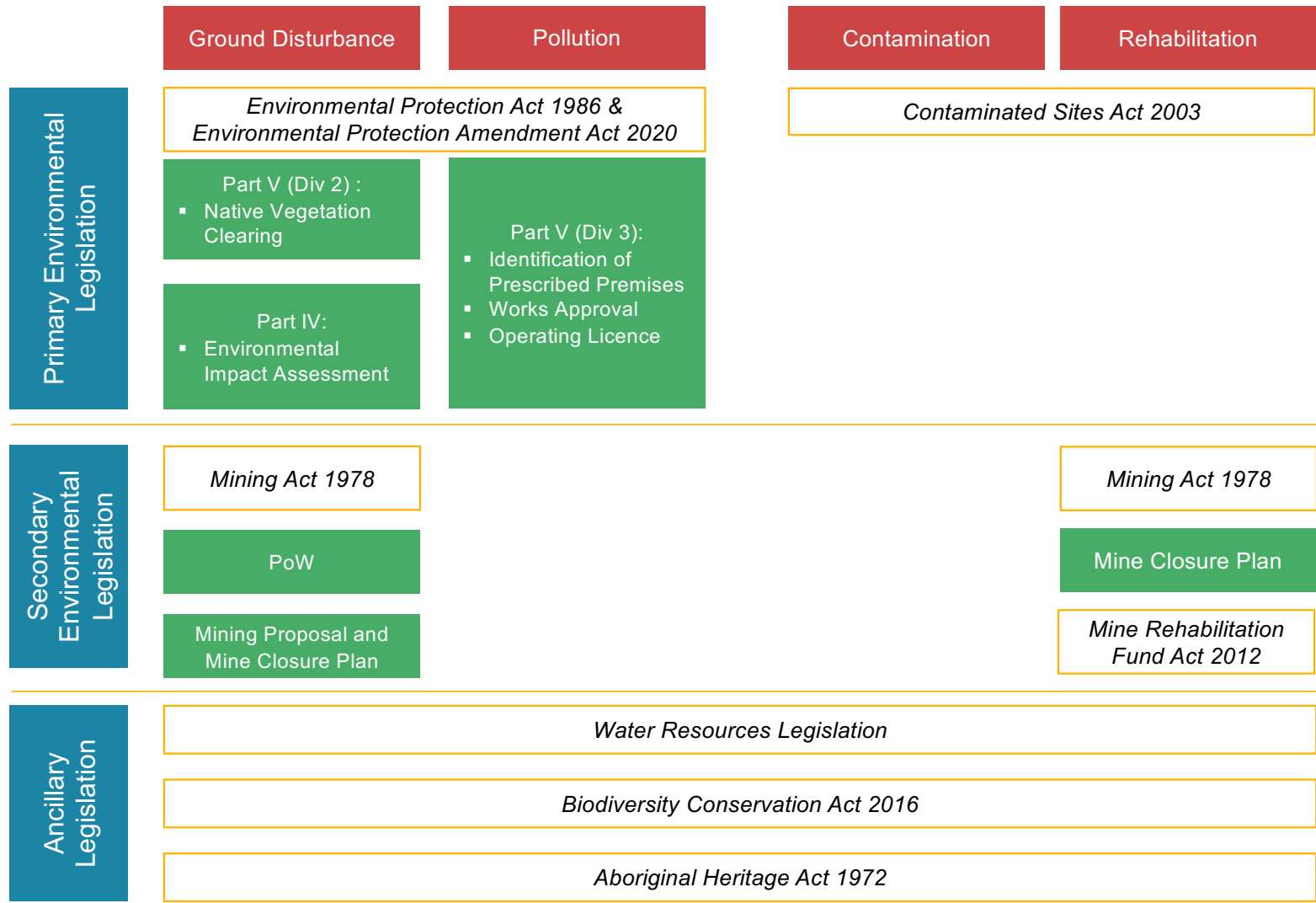
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Participants will understand:

- ❑ *Environmental Protection Act 1986*
  - Overview
  - Part IV: Referral and Environmental Impact Assessment Approvals
  - Part V: Environmental Regulation
    - Division 2: Native Vegetation Clearing
    - Division 3: Prescribed Premises, Works Approvals and Licences
- ❑ *Environmental Protection and Biodiversity and Conservation Act 1999 (Federal)*
- ❑ *Mining Act 1978*
  - Program of Works
  - Mining Proposal
  - Mine Closure Plan
- ❑ *Mine Rehabilitation Fund Act 2012*
- ❑ *Contaminated Sites Act 2003*
- ❑ *Water Resources Legislation*
- ❑ *Biodiversity Conservation Act 2016*
- ❑ *Aboriginal Heritage Act 1972*



# Environmental Legislation WA



# EP Act 1986

**OBJECTIVE:** protect the environment of the State with regard to the following principles:

- Precautionary Principle
- Principle of Intergenerational Equity
- Principle of the Conservation of Biological Diversity and Ecological Integrity.
- Principles relating to Improved Valuation, Pricing and Incentive Mechanisms

## Regulating Agencies:

- The Environmental Protection Authority (EPA) is an independent statutory body that provides advice to the Minister for Environment.
- The Department of Water and Environmental Regulation (DWER) supports the EPA in conducting environmental impact assessments and developing policies to protect the environment. The department also monitors compliance with the conditions of Ministerial Statements.

*'An Act to provide for an Environmental Protection Authority, for the prevention, control and abatement of pollution and environmental harm, for the conservation, preservation, protection, enhancement and management of the environment and for matters incidental to or connected with the foregoing.'*

## PARTS OF THE ACT:

- Part I: Preliminary
- Part II: Environmental Protection Authority
- Part III: Environmental Protection Policies
- **Part IV: Environmental Impact Assessment**
- **Part V: Environmental Regulation**
- Part VA: Financial Assurances
- Part VI: Enforcement
- Part VIA: Legal Proceedings and Penalties
- Part VII: Appeals
- Part VIII: General
- Part IX: Transitional
- Part X: Validation

# EP Act 1986: Part IV

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## Summary Overview of Part IV of the EP Act:

- Provides for the **referral** and **assessment** of significant and strategic proposals, and proposals of a prescribed class, and schemes.
- Allows for the EPA to draw up **administrative procedures** for the purposes of establishing the principles and practices of environmental impact assessment (EIA).
- Provides for decision-making regarding the implementation and regulation of proposals

## Environmental Protection Act amendments 2020

- WA Parliament passed amendments to the EP Act in November 2020. Amendments relating to Part IV of the EP Act came into force on 22 October 2021. These amendments are reflected in the:
  - EIA procedures suite:
    - *The Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2021, EPA, October 2021*
    - *The Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual, EPA, October 2021*
  - Framework for environmental considerations in EIA
    - *Statement of Environmental Principals, Factors, Objectives and Aims of EIA* document, EPA, October 2021
  - Provision of templates, instructions and forms
  - Advice and reference materials

# EP Act 1986: Part IV

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## What does 'Referral' mean?

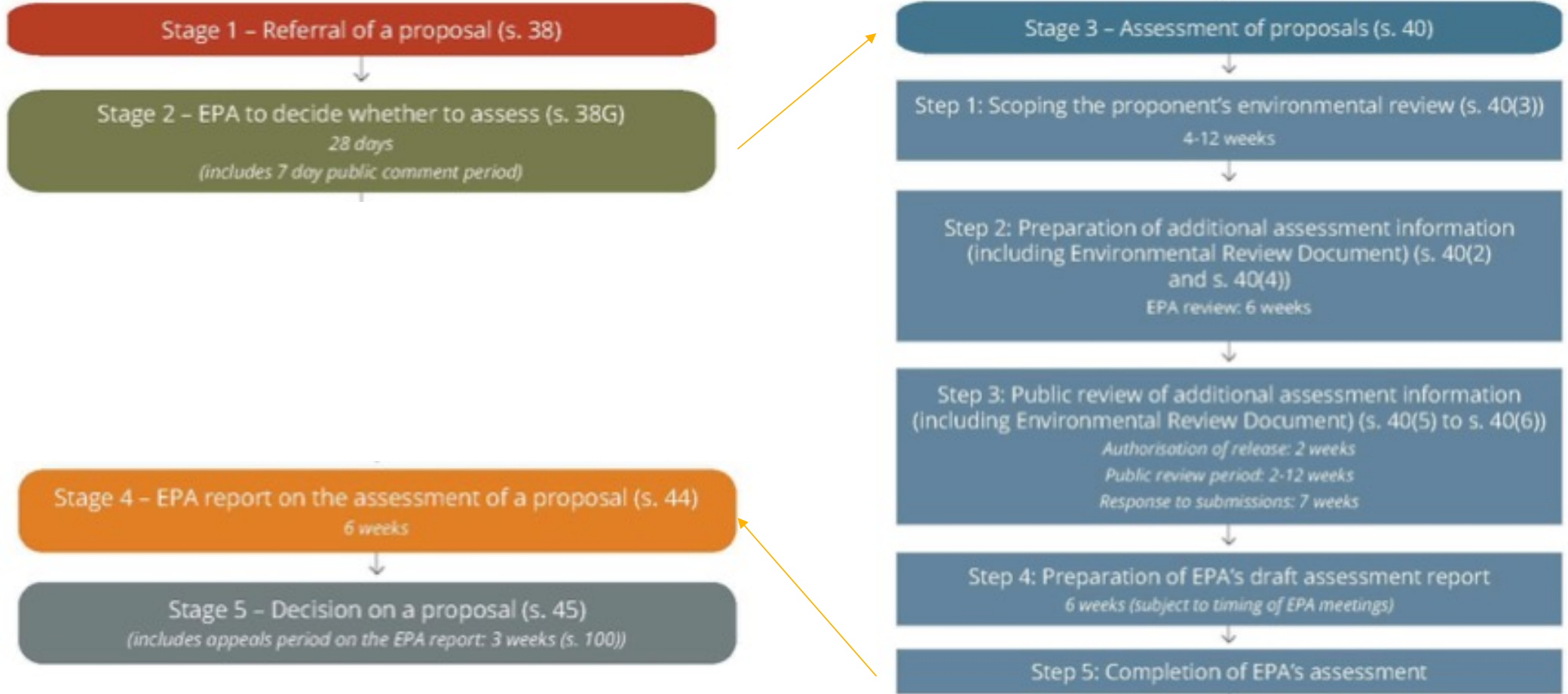
- One of the EPA's key roles is to provide Government with advice on the environmental acceptability of development proposals and statutory planning schemes.
- If the proposed development or planning scheme is likely to have a significant environmental effect on the government, it is referred to the EPA under S38 of the EP Act. This is the **referral** of a proposal.
- There are different types of proposals: significant proposals, strategic proposals, proposals for a prescribed class, and proposal under an assessed scheme.
- The proposal document must:
  - Be in provided the Referral Form (*Form - Referral of a proposal under S38*) (October 2021)
  - Contain information described in the document, *Referral of a proposal under Section 38 of the Environmental Protection Act 1986, Instructions (29 October 2021)*

## What does 'Assessment' Mean:

There is the formalised **administrative process** of assessing a referral which is completed in stages:

- Stage 1: Referral of the proposal to the EPA (s.38)
- Stage 2: EPA decide whether or not to assess a referred proposal
- Stage 3: Assessment of proposals and significant amendments
- Stage 4: EPA report on the assessment of a proposal
- Stage 5: Decision on proposal and implementation of proposals (s.45 to S.48)

# EP Act 1986: Part IV



# EP Act 1986: Part IV

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## What is an EIA?

- *'EIA means an orderly and systematic process for evaluating a proposal (including its alternatives) and its effects on the environment, and mitigation of those effects. The process extends from the initial concept of the proposal through implementation to completion, and where appropriate, decommissioning'.*
- The EIA is underpinned by:
  - Environmental Principles
  - Environmental Factors and associated Objectives (*Statement of Environmental Principles, Factors, Objectives and Aims of EIA* document, EPA, October 2021)
- The EIA considers:
  - Stakeholder engagement and public interests
  - Values, sensitive and quality of the environment to be impacted
  - Extent (intensity, duration, magnitude and geographic footprint) of the likely impacts
  - Resilience of the environment to cope with the impacts
  - Consequence of the impacts
  - Application of the mitigation hierarchy (Environmental Factors: avoid, minimise, rehabilitate, offset; & Greenhouse Gas Emissions Factor (avoid, reduce, offset)
  - Correlation of environmental factors to environmental impacts
  - Cumulative impacts
  - Holistic impacts
  - Level of confidence in the prediction of residual impacts
  - Best practical measures to minimise impact and environmental management to address impacts
  - Scientific efficacy



# EP Act 1986: Part IV

## Factors and Objectives

Theme	Factor	Objective
Sea	Benthic Communities and Habitats	To protect benthic communities and habitats so that biological diversity and ecological integrity are maintained.
	Coastal Processes	To maintain the geophysical processes that shape coastal morphology so that the environmental values of the coast are protected.
	Marine Environmental Quality	To maintain the quality of water, sediment and biota so that environmental values are protected.
	Marine Fauna	To protect marine fauna so that biological diversity and ecological integrity are maintained.
Land	Flora and Vegetation	To protect flora and vegetation so that biological diversity and ecological integrity are maintained.
	Landforms	To maintain the variety and integrity of distinctive physical landforms so that environmental values are protected.
	Subterranean Fauna	To protect subterranean fauna so that biological diversity and ecological integrity are maintained.
	Terrestrial Environmental Quality	To maintain the quality of land and soils so that environmental values are protected.
	Terrestrial Fauna	To protect terrestrial fauna so that biological diversity and ecological integrity are maintained.
Water	Hydrological Processes	To maintain the hydrological regimes of groundwater and surface water so that environmental values are protected.
	Inland Waters Environmental Quality	To maintain the quality of groundwater and surface water so that environmental values are protected.
Air	Air Quality	To maintain air quality and minimise emissions so that environmental values are protected.
People	Social Surroundings	To protect social surroundings from significant harm.
	Human Health	To protect human health from significant harm.

Factor Guidelines and Technical Guidance for Sea, Land, Water, Air and People. An Example below is for Land:

### Factor Guidelines

**Flora and Vegetation**

Objective - to protect flora and vegetation so that biological diversity and ecological integrity are maintained.

- [Environmental Factor Guideline - Flora and Vegetation](#)

**Terrestrial Fauna**

Objective - to protect terrestrial fauna so that biological diversity and ecological integrity are maintained.

- [Environmental Factor Guideline - Terrestrial Fauna](#)

**Subterranean Fauna**

Objective - to protect subterranean fauna so that biological diversity and ecological integrity are maintained.

- [Environmental Factor Guideline - Subterranean Fauna](#)

**Landforms**

Objective - to maintain the variety and integrity of significant physical landforms so that environmental values are protected.

- [Environmental Factor Guideline - Landforms](#)

**Terrestrial Environmental Quality**

Objective - to maintain the quality of land and soils so that environmental values are protected.

- [Environmental Factor Guideline - Terrestrial Environmental Quality](#)

### Technical guidance: Land

**Flora and Vegetation**

- [Technical Guidance - Flora and Vegetation Surveys for Environmental Impact Assessment](#)

**Subterranean Fauna**

- [Technical Guidance - Subterranean fauna survey](#)
- [Technical Guidance - Sampling methods for subterranean fauna](#)

**Terrestrial Fauna**

- [Technical Guidance - Sampling of short range endemic invertebrate fauna](#)
- [Technical Guidance - Terrestrial vertebrate fauna surveys for environmental impact assessment](#)

## IMPLEMENTATION & COMPLIANCE

### Implementation of an approved proposal

- A Ministerial Statement is issued that sets out the conditions and procedures that the proponent must adhere to during the project implementation.
- The proponent is required to ensure that implementation of the proposal is carried out in accordance with the implementation conditions, including any Environmental Management Plans required as a condition.
- DWERs monitors compliance with the Ministerial Statements and undertakes an annual audit program. If compliance is not met, a Notice of Non-Compliance is issued detailing actions to rectify the non-compliance

### Additional Implementation Conditions

- Prepare a Compliance Assessment Plan (CAP) if the Ministerial Statement identifies this as an implementation conditions. Used by DWER and proponent to monitor and demonstrate compliance
- Prepare a Compliance Assessment Report (CAR). They are declarations by the proponent providing the compliance status of the implementation conditions and a defined reporting period. Must include an Audit Table
- Prepared Environmental Management Plans (EMPs) may be prepared as part of the referral , or required as a implementation condition under a Ministerial Statement. Examples may be 'Fauna Management Plan'. Does not include Mine Closure Plans.

*Templates and/or instructions provided on the website.*

# EP Act 1986: Part V - Native Vegetation Clearing

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The clearing of native vegetation is an offence unless completed in accordance with a **clearing permit**, or an **exemption** applies. It is regulated under Part V EP Act and the following regulations and notices:

- Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (Clearing Regulations)

## What is Native Vegetation?

'Native vegetation' means all types of indigenous vegetation, including:

- Those found in aquatic and marine environments
- Dead vegetation (unless declared by regulation to be excluded).

Native vegetation does not usually include vegetation that has been intentionally planted for commercial exploitation unless the planting was required by law, or the vegetation is protected under a conservation covenant or other binding agreement.

## What Is Clearing:

Clearing means – causing substantial damage to native vegetation, including through:

- the killing or removing of native vegetation
- the severing or ringbarking of trunks or stems
- the draining or flooding of land
- the burning of vegetation
- the grazing of stock
- any other activity that kills or damages native vegetation.

## Clearing Exemptions:

Some mining activities are exempt from requiring a clearing permit and involve clearing for exploration or low impact:

- Temporary tracks, groundwater drilling, clearing for camp sites, anchoring vessels and removing marine growth from certain structures.
- Clearing for camp sites and storage with a total area of 2 hectares per tenement
- Driving vehicles off road
- 4m wide raised blade clearing (with 100m distance between tracks)
- Scrape and detect areas of 2 hectares per tenement
- 10 hectares per financial year per *authority* area for clearing regulated under the *Mining Act 1978*. An *authority* area is a mining tenement defined under this Act.
- Construction of a water bore and taking water under a Licence granted under the Rights in Water and Irrigation Act 1914

A Native Vegetation Clearing Permit is not required if the area to be cleared is referred under Part IV of the EP Act.

Exemptions do not apply to Environmentally Sensitive Areas (ESA)

# EP Act 1986: Part V - Native Vegetation Clearing

## Two types of Clearing Permits

- Area permit
  - Applied for by an applicant who is the owner of the land
  - Clearing of specific areas
  - Default period of two years
- Purpose permit
  - Applied for by person or entity who is not owner but has authority or permission
  - Clearing of different areas from time to time for a specific purpose
  - Default period of five years

## Clearing under a Part V Works Approval or Licence

- A clearing permit is not required if clearing done in accordance with a works approval or licence.
- Applicants may apply for clearing under a works approval or licence, or via a separate clearing permit.

## Clearing for Mineral Activities under Mining Action 1978 and State Agreements

- DMIRS can receive, assess and determine applications for clearing permits

Mineral tenure	Area permit	Purpose Permit
General purpose lease	Applicable	Applicable
Mining lease	Applicable	Applicable
Prospecting licence	Not available	Applicable
Miscellaneous licence	Not available	Applicable
Exploration licence	Not available	Applicable
Retention licence	Not available	Applicable

For low environmental impact, referrer need to follow the clearing referral process to DWER or DMIRS to determine if they need a clearing permit. This process is detailed in, *Guideline: Native Vegetation Clearing Referrals* (DWER, October 2021)

[https://www.wa.gov.au/system/files/2021/10/Guideline\\_Native\\_vegetation\\_clearing\\_referrals.pdf](https://www.wa.gov.au/system/files/2021/10/Guideline_Native_vegetation_clearing_referrals.pdf)

# EP Act 1986: Part V - Native Vegetation Clearing

Stage	Overview	Considerations
Stage 1: Pre-Application	Applicants determine whether they need a clearing permit	<p>Applicants need to consider:</p> <ul style="list-style-type: none"> <li>• Is the clearing exempt?</li> <li>• What type of clearing permit is appropriate (Area or Purpose Permit)</li> <li>• Is the clearing for mineral or petroleum purposes (i.e., regulated by DMIRS)?</li> <li>• Will the clearing impact on MNES and if yes, will clearing be assessed under the assessment bilateral agreement?</li> <li>• Will a referral under Part IV of the EP Act be necessary?</li> <li>• Is the clearing suitable for the clearing referrals process (is it eligible and will the clearing have no more than very low environment impact only)?</li> </ul>
Stage 2: Validation	DWER determines validity of clearing permit application	
Stage 3: Assessment	DWER completes assessment	<p>Key considerations:</p> <ul style="list-style-type: none"> <li>• Is further information required from applicants?</li> <li>• Determine appropriate conditions to attach to permit</li> <li>• Finalise and publish decision</li> </ul>
Stage 4: Decision Review	Outlines appeals process	
Stage 5: Instrument Management	Management requirements for active permit	<ul style="list-style-type: none"> <li>• Clearing permit holders must comply with conditions of their permit</li> <li>• DWER can complete compliance inspections</li> </ul>

Reference: *Procedure Native Vegetation Clearing Permits (Application and Assessment Process)*, DWER, October 2021

- DWER regulates industrial emissions and discharges to the environment through a works approval and licensing process
- The EP Act requires:
  - **Works Approval:** A works approval to be obtained before constructing a prescribed industrial premises
  - **Operating Licence:** An operating licence to emit or discharge waste, odour, noise, electromagnetic radiation once the prescribed premise is operational

*Licences and works approvals set conditions for prescribed premises to ensure that potential impacts and risks to the environment are minimised. This is based on a risk-assessment process.*

- Occupiers of prescribed premises are required to submit annual reports to DWER on compliance with their licence conditions through an Annual Environmental Report (AER) and an Annual Audit Compliance Report (AACR)

## Publications

[Guideline: Industry Regulation Guide to Licensing](#) (June 2019)

This guideline provides in-depth guidance for the environmental licensing framework that applies under Part V Division 3 of the Environmental Protection Act 1986 regarding the construction and operation of prescribed premises.

## Annual Audit Compliance Reports

[Guidance Statement: Publication of Annual Audit Compliance Reports \(May 2016\)](#)

- Provides guidance on how the Department of Environment Regulation (DER) will provide greater public access to the information provided in the Annual Audit Compliance Reports (AACRs) submitted by licensees.

[Guideline: Annual Audit Compliance Reports \(August 2016\)](#)

- To assist licensees in preparing AACRs under condition of licences granted under Part V of the *Environmental Protection Act 1986* (EP Act).

[Annual Audit Compliance Report Form](#)

**Guideline: Industry Regulation Guide to Licensing**

<https://www.der.wa.gov.au/images/documents/our-work/licences-and-works-approvals/licensing%20guidelines/Industry%20Regulation%20Guide%20to%20licensing%20%20June%202019.pdf>

## Key Guidelines:

[Guideline: Risk Assessments](#) (plain English update, December 2020)

- To provide guidance on the Department of Environment Regulation's (DER) regulatory framework and the application of regulatory controls for works approvals and licences granted under Part V, Division 3 of the *Environmental Protection Act 1986* (EP Act).

[Guideline: Decision Making](#) (June 2019)

- To provide guidance on the Department of Environment Regulation's (DER) regulatory framework relating to applications for works approvals and licences granted under Part V, Division 3 of the *Environmental Protection Act 1986* (EP Act).

[Guideline: Environmental Siting](#) (plain English update, December 2020)

- DER will give consideration to environmental siting to inform the risk assessment of activities carried out on prescribed premises.

[Guidance Statement: Environmental Standards](#) (September 2016)

- sets out the required levels of environmental performance for regulated activities based on the hierarchy of preventing, controlling, abating and mitigating pollution and environmental harm.

[Guideline: Continuous Emission Monitoring System \(CEMS\) Code for Stationary Source Air Emissions 863 KB](#)

- establishes requirements for the design, installation, performance, maintenance, and verification of continuous emission monitoring systems for stationary air sources.

[Guidance Statement: Setting Conditions 436.64 KB](#) (October 2015 version replaces September 2015 release)

- provides guidance on the DER's setting of conditions on works approvals and licences issued under Division 3, Part V of the EP Act.

[Guidance Statement: Licence duration 230.93 KB](#)

- provides guidance on DER's application of licence duration in Part V of the EP Act.



# EP Act 1986 Part V: Prescribed Premises, Works Approvals and Licences

- Industrial premises with potential to cause emissions and discharges to air, land or water are known as 'prescribed premises' and trigger regulation under the EP Act. Prescribed premises categories are outlined in Schedule 1 of the *Environmental Protection Regulations 1987*



Category number	Description of category	Production or design capacity
1	Cattle feedlot: premises on which the watering and feeding of cattle occurs, being premises — (a) situated less than 100 m from a watercourse; and (b) on which the number of cattle per hectare exceeds 50.	500 animals or more
2	Intensive piggery: premises on which pigs are fed, watered and housed in pens.	1 000 animals or more
[3, 4	<i>deleted]</i>	
5	Processing or beneficiation of metallic or non-metallic ore: premises on which — (a) metallic or non-metallic ore is crushed, ground, milled or otherwise processed; or (b) tailings from metallic or non-metallic ore are reprocessed; or (c) tailings or residue from metallic or non-metallic ore are discharged into a containment cell or dam.	50 000 tonnes or more per year
6	Mine dewatering: premises on which water is extracted and discharged into the environment to allow mining of ore.	50 000 tonnes or more per year
7	Vat or in situ leaching of metal: premises on which metal is extracted from ore with a chemical solution.	5 000 tonnes or more per year
8	Mineral sands mining or processing: premises on which mineral sands ore is mined, screened, separated or otherwise processed.	5 000 tonnes or more per year

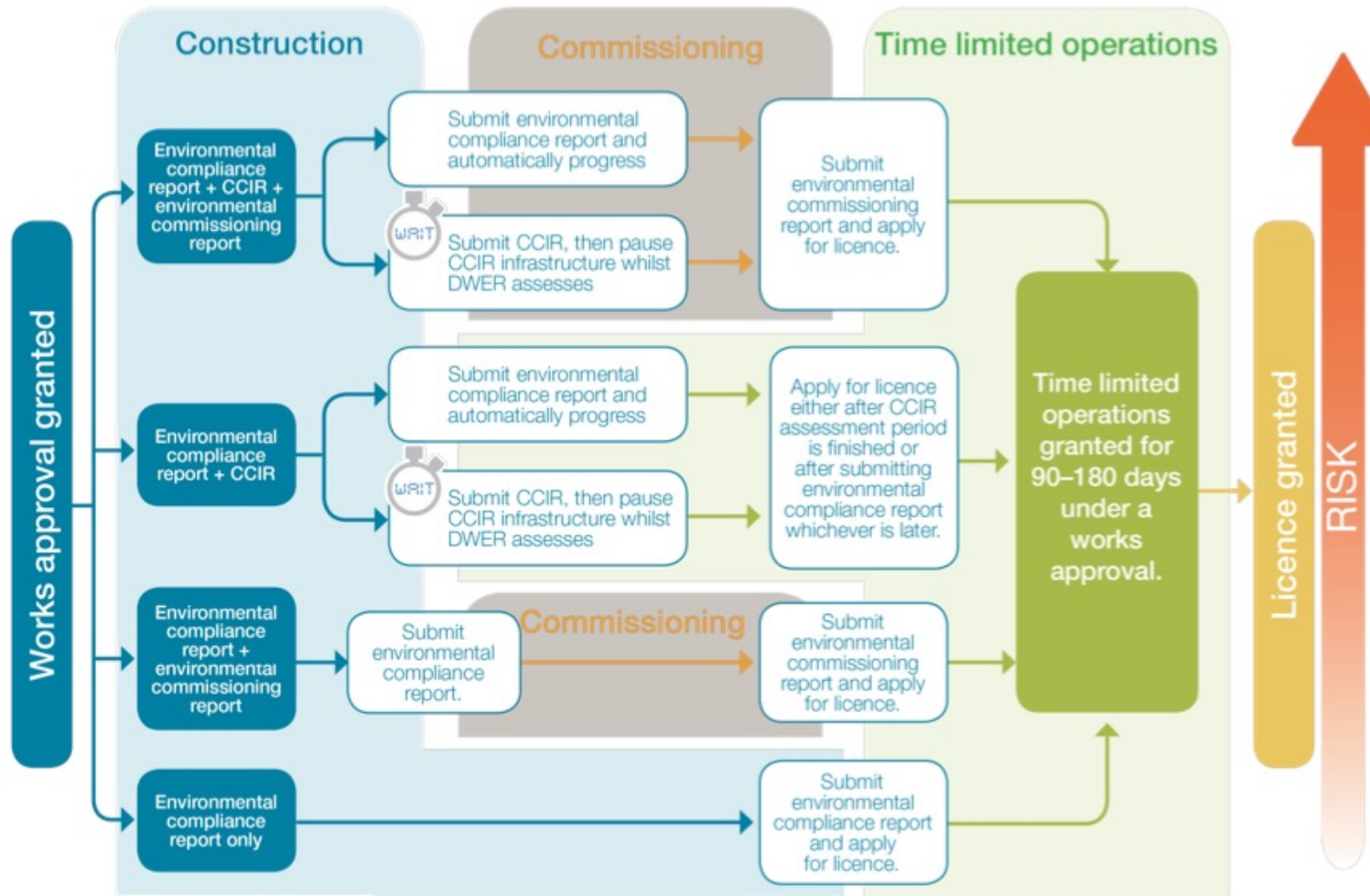


Figure 1: Transition from works approval to licence

## Compliance for Works Approval:

There are three types of reports that the Department may require to be submitted by an applicant to demonstrate that they have met the requirements of the conditions of their **works approval** :

- Environmental Compliance Report
  - documented confirmation that what has been installed is authorised by the works approval
- Critical Containment Infrastructure Report
  - may be required for premises that include containment infrastructure (e.g. for the purpose of storage and containment of waste).
  - to confirm that the environmental controls on containment infrastructure are properly constructed before materials are deposited in the containment cell.
- Environmental Commissioning Report
  - Environmental commissioning is testing undertaken to validate actual environmental performance relative to predicted performance
  - Subject to approval by DWER
  - Sets conditions for the Works Approval

## Compliance for License:

- Licences are issued with a condition that requires the licensee to submit a Annual /audit Compliance Report (AACR)
- The AACR relates to compliance reporting which enables the licensee to report on their compliance or non-compliance(s) with licence conditions.
- AACR Form

# Environment Protection and Biodiversity Conservation Act 1999

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- Act of the Parliament of Australia
- Administered by the Department of Agriculture, Water and the Environment
- Provides for the protection of the Australian environment, notably its biodiversity and its natural and culturally significant places
- Establishes processes to help protect and promote the recovery of threatened species and ecological communities, and preserve significant places from decline
- Projects should be referred to and are likely to be assessed under the EPBC Act when there is a potential to have a significant impact on any of the nine Matters of National Environmental Significance (MNES):

- World Heritage Properties

- National Heritage Places

- Wetlands of International Importance

- Commonwealth Marine Areas

- Migratory Species

- Nationally Threatened Species and Ecological Communities

- Great Barrier Reef Marine Park

- Nuclear Actions

- Water Resource, in relation to coal seam gas and large coal mining development

# Environment Protection and Biodiversity Conservation Act 1999

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The EPBC Act applies to:

- “actions” undertaken by any person which are likely to have a “significant impact” on the specifically listed “matters of national environmental significance
- “actions” undertaken by Commonwealth government agencies (see below for who these are) which are likely to have a significant impact on the environment anywhere in the world
- “actions” undertaken by any person which are likely to have a significant impact on Commonwealth land (see below for what this is).

If a project is an “action” described above, it must be referred to the Commonwealth Minister for the Environment, who then decides whether it needs to be the subject of environmental impact assessment and approval under the EPBC Act.

# Mining Act 1978: Programme of Work

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- Proponents are required to obtain approval from DMIRS before undertaking any ground disturbing activity on a tenement granted under the *Mining Act 1978* this includes Exploration activities.
- Exploration activities are authorised via the PoW process.
- A PoW outlines the proposed activities, area to be disturbed and the environmental controls that will be used to limit environmental harm.

- Prior to an explorer or prospector conducting any ground disturbing activities with mechanised activities
- There are 2 types of POWs
  - POW-P - a manual form to be completed and submitted hardcopy or online
  - POW-S (Programme of Work Spatial) is an online lodgement (EARs)

## Excess Tonnage

- Limits:
  - Exploration: 1000 tonnes
  - Prospecting: 500 tonnes
- Material in excess of these limits in respect of prospecting licences, special prospecting licences, exploration licences and retention licences may be excavated, extracted or removed only with prior written approval from the Minister for Mines and Petroleum (the Minister)

- Terms
  - Approvals are valid for 4 years (from the date of the approval letter).
  - Extensions of time needs to be made prior to expiry
- Obligations
  - Meet conditions per approved POW
  - Rehabilitation to be done within 6 months of disturbance
- Reporting
  - Rehabilitation Report
  - On-line submission EARs
- Data Management
  - It is important to record in your tenement management system the grant, expiry and end of drilling dates
  - It is usual to provide before and after photographs of the disturbance and rehabilitation.

# Mining Act 1978: Mining Proposals

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## **DMIRS' principal environmental regulatory objective:**

*Resource industry activities are designed, operated, closed, decommissioned and rehabilitated in an ecologically sustainable manner, consistent with agreed environmental outcomes and end land-uses without unacceptable liability to the State.*

- All applications must be submitted either in accordance with Part 1 (risk and outcomes based) or Part 2 (small mining operations) of the 2020 Statutory Guidelines
- All mining proposals must include a Mine Closure Plan.
- Must be submitted electronically on EARS2
- Approved mining proposals will be made available to the public via the Department of Mines, Industry Regulation and Safety (DMIRS) website.

The Mining Act requires a tenement holder to submit a mining proposal in the prescribed manner, and obtain written approval for the mining proposal from a prescribed official, prior to undertaking any mining operations on a lease granted under the Mining Act.

Commencing mining operations without the written approval of the prescribed official is a breach of tenement conditions and renders the tenement(s) liable for forfeiture under the Mining Act.

The Mining Act defines a “mining proposal” as a document that:

- is in the form required by the guidelines;
- contains information of the kind required by the guidelines about proposed mining operations in, on or under the land in respect of which a mining lease is sought or granted, as the case requires; and
- contains a mine closure plan.

The *Statutory Guidelines for Mining Proposals* are the guidelines as defined in section 700 of the Mining Act and mandate the form and content of information required in a mining proposal.

# Mining Act 1978: Mining Proposals

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[Statutory Guideline for Mining Proposals - March 2020 - 568 Kb](#)

Mandatory form and content for Mining Proposals under the Mining Act 1978 effective 3 March 2020



[Environment Group Site Details and Activity Details Form - 1 Mb](#)

Environmental group site details and activity details form

## Policies



[Environmental Objectives Policy for Mining - March 2020 - 223 Kb](#)

Identifies environmental factors and objectives for decision making under the Mining Act 1978

## Guidelines



[2020 Mining Proposal Checklist - 1 Mb](#)

Checklist to assist with the preparation of a mining proposal



[Mining Proposal Guidance - how to prepare in accordance with the Statutory Guidelines - March 2020](#)

Supporting guidance information to inform the preparation of Mining Proposals



[Mining Proposal Scoping Document - 1 Mb](#)

Mining Proposal Scoping Document



[Proforma for Notification of Minor Changes to a Mining Proposal - 1 Mb](#)

Proforma for notification of minor changes to a mining proposal.

## Process:

1. Initiate consultation with DMIRS
2. Complete Mining Proposal Scoping Document (not statutory)

The purpose of a Mining Proposal Scoping Document (MPSD) is to:

- provide a framework for pre-consultation with DMIRS to discuss the scope and key aspects of the mining proposal;
- delineate regulatory agency responsibilities; and
- identify issues that are to be addressed prior to submission of the mining proposal and/or required studies/work that need to be carried out.

3. Prepare Mining Proposal



# Mining Act 1978: Mining Proposal

Mining Proposals should:

- Identify the potential risks that a mining operation could pose to the environment throughout the life of mine
- Explain how the risks will be assessed and mitigated
- Declare appropriate site-specific environmental outcomes
- Monitoring and reporting on the success of these outcomes

DMIRS' key environmental objectives are listed in Table 1 for the key environmental factors that are relevant to mining activities. DMIRS will consider these environmental objectives when determining whether a site-specific environmental outcome is acceptable.

**Table 1: Objectives for environmental factors**

Factor	Objective
Biodiversity	To maintain representation, diversity, viability and ecological function at the species, population and community level.
Water Resources	To maintain the hydrological regimes, quality and quantity of groundwater and surface water to the extent that existing and potential uses, including ecosystem maintenance, are protected.
Land and Soils	To maintain the quality of land and soils so that environmental values are protected.
Rehabilitation and Mine Closure	Mining activities are rehabilitated and closed in a manner to make them physically safe to humans and animals, geo-technically stable, geo-chemically non-polluting/non-contaminating, and capable of sustaining an agreed post-mining land use, and without unacceptable liability to the State.

## Key Contents:

- Cover Page
- Tenement Holder Identification
- Environmental Group Site Details
- Activity Details
- Environmental Legislative Framework
- Stakeholder Tenement
- Baseline Environmental Data
- Environmental Risk Assessment
- Environmental Outcomes, Performance Criteria, and Monitoring
- Environmental Management System
- Mine Closure Plan
- Expansions and/or alterations to Approved Mining Proposal

# Mining Act 1978: Mine Closure Plan

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- A Mine Closure Plan (MCP) forms part of every Mining Proposal
- The MCP must meet the form and content requirements of the statutory guideline and be approved by a relevant prescribed official.
- The purpose of a Mine Closure Plan is to ensure that there is a planning process in place so that the mine can be closed, decommissioned and rehabilitated to meet the DMIRS environmental objectives.
- Mine closure planning should be integrated into all stages of mine development and operation, and it is intended that the Mine Closure Plan is continuously refined over the life of mine. As per the Statutory Guidelines for Mine Closure Plans, these must include post-mining land uses, closure outcomes and completion criteria.
- Once post-closure monitoring demonstrates achievement against the completion criteria and closure outcomes over a sufficient timeframe, proponents can consider lodging a Mine Closure Completion Report. DMIRS has developed a life of mine schematic to demonstrate how the closure completion report fits into the relinquishment pathway under the Mining Act (Figure 1).

## Requisite Documents:

- Mine Closure Plan
- Mine Closure Completion Report

# Mining Act 1978: Mine Closure Plan

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## Statutory Documents



[ProForma - Mining Closure Plan for Small Mining Operations - March 2020 - 474 Kb](#)

Proforma to be used for reviewed Mine Closure Plans - as per the Statutory Guidelines for Mine Closure Plans - effective 3 March 2020 (word version)



[ProForma - Mining Closure Plan for Small Mining Operations - March 2020 - 201 Kb](#)

Proforma to be used for reviewed Mine Closure Plans - as per the Statutory Guidelines for Mine Closure Plans - effective 3 March 2020 (pdf version)



[Statutory Guideline for Mine Closure Plans - March 2020 - 473 Kb](#)

Mandatory form and content for Mine Closure Plans under the Mining Act 1978 effective 3 March 2020

## Policies



[Environmental Objectives Policy for Mining - March 2020 - 223 Kb](#)

Identifies environmental factors and objectives for decision making under the Mining Act 1978

## Guidelines



[Mine Closure Completion Guideline - 418 Kb](#)

Mine Closure Completion Guideline



[Mine Closure Plan Guidance - how to prepare in accordance with the Statutory Guidelines - March 2020 - 1 Mb](#)

Supporting guidance information to inform the preparation of Mine Closure Plans



[Mine Closure Plan Checklist - 1 Mb](#)

Checklist to assist with the preparation of a mine closure plan.

## Technical guidance



[A framework for developing mine-site completion criteria in WA -](#)

Supports the development of completion criteria and monitoring

# Mining Act 1978: Mine Closure Plan and Mine Completion Report 28

## MCP TOC:

- Project Summary
- Closure obligations and commitments
- Stakeholder engagement
- Baseline closure data and analysis
- Closure risk assessment
- Post mining land use and closure objectives
- Closure outcomes; closure criteria and closure performance indicators
- Closure Implementation
- Closure Monitoring and Maintenance
- Financial Provisioning for Closure
- Management of Information and Data

In order to achieve formal acceptance from DMIRS, the tenement holder will need to submit a Mine Closure Completion Report that demonstrates:

- the agreed closure outcomes and completion criteria as outlined in the approved MCP have been met;
- compliance with relevant environmental, rehabilitation and mine closure tenement conditions;
- confirmation of adequate consultation and agreement with key stakeholders and post-mining land managers; and
- all residual risks have been appropriately considered.

## Mine Completion Report TOC

- Project Overview
- Stakeholder Engagement (undertaken)
- Post Mining Landuse (achieved)
- Closure Outcomes and Closure Criteria (achieved)
- Post Closure risks (addressed)
- Post mining land use and closure objectives

# Mining Act 1978: AERs

- Standard tenement conditions currently require an Annual Environmental Report (AER) to be submitted
- AERs To be submitted online through EARS2
- For sites with approved Mining Proposals, additional columns have been added to input:
  - Monitoring results and environmental performance against environmental outcomes and performance criteria
  - Monitoring evidence documents to be listed

## Objectives of the AER:

- Document mining activities for the reporting year and proposed activities for the following year.
- Document environmental management and rehabilitation activities for the reporting year, and proposed activities and developments in the following year.
- Report on the progress and status of achieving environmental outcomes and closure objectives for the site, including the provision of relevant monitoring reports or data.
- Provide an assessment of compliance with conditions

Tenement	Assessment Date	Area Approved (ha)	Total Area of Activity (ha)		Land Under Rehabilitation (ha)			Relinquished (ha)	Disturbance (ha)
			Reporting Period	Change	Stage 1	Stage 2	Total Rehab		
L 52/111	21/03/2019	1.5000	1.5000		0.3000	0.0000	0.3000	0.0000	1.2000
L 52/68	31/03/2019	0.2000	0.2000		0.0000	0.0000	0.0000	0.0000	0.2000
M 52/106	26/03/2019	11.7000	11.7000		0.0000	4.3000	4.3000	4.3000	7.4000
M 52/58	24/02/2019	81.2500	81.2500		3.2000	11.0900	14.2900	16.2300	66.9600
<b>Total</b>		<b>94.6500</b>	<b>94.6500</b>	<b>0</b>	<b>3.5000</b>	<b>15.3900</b>	<b>18.8900</b>	<b>20.5300</b>	<b>75.7600</b>

Links: Environmental Compliance > 7. AER Guidelines

# Mining Rehabilitation Fund Act 2012

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- All tenement holders operating on [Mining Act 1978 \(Mining Act\)](#) tenure (with the exception of tenements covered by State Agreements not listed in the regulations), are required to report disturbance data and contribute annually to the fund.
- Tenements with a rehabilitation liability estimate (RLE) at or below a threshold of \$50,000 must report disturbance data but are not required to pay into the fund.
- Money in the fund is available to rehabilitate [abandoned mines](#) across the State in circumstances where the tenement holder/operator has failed to meet rehabilitation obligations and efforts to recover funds from the holder/operator have been unsuccessful. The Mining Rehabilitation Fund is a pooled fund that WA mining operators contribute to
- It replaced an Unconditional Performance Bond system (that still exists on some tenure) because companies would go into liquidation and then the Government was left with the rehabilitation costs
- Bonds are still imposed or retained where DMIRS considers there is high risk that a tenement holder's rehabilitation liability may revert to the State
- Reporting is required 30 June each year
- Exploration disturbance cost \$2000 per ha, keep the disturbance below 25 ha per tenement and no payment is required
- Commence rehabilitation of exploration and no payment is required
- Auditing of the MRF reports are done periodically
- It is important to document previous disturbance on a tenement before commencing your own disturbance.
- The introduction of the MRF does not absolve tenement holders/operators of their legal obligation to carry out rehabilitation works on a tenement.

# Mining Rehabilitation Fund Act 2012

## Categories

### Appendix 1: Rehabilitation Liability Categories and Unit Rates

The following tables have been reproduced from Schedule 1 of the MRF Regulations.

Description of infrastructure or land	Category	Unit rate
Tailings or residue storage facility (class 1) Waste dump or overburden stockpile (class 1) Heap or vat leach facility Evaporation pond Dam – saline water or process liquor	A	\$50,000
Tailings or residue storage facility (class 2) Waste dump or overburden stockpile (class 2) Low-grade ore stockpile (class 1) Plant site Fuel storage facility Workshop Mining void (with a depth of at least 5 metres) — below ground water level Landfill site Diversion channel or drain Dam — fresh water	B	\$30,000

Low-grade ore stockpile (class 2) Sewage pond Run-of-mine pad Building (other than workshop) or camp site Transport or service infrastructure corridor Airstrip Mining void (with a depth of at least 5 metres) — above ground water level Laydown or hardstand area Core yard Borrow pit or shallow surface excavation (with a depth of less than 5 metres) Borefield Processing equipment or stockpile associated with <i>Basic Raw Material</i> extraction Land (other than land under rehabilitation or rehabilitated land) that is cleared of vegetation and is not otherwise described in this Table	C	\$18,000
Land (other than land under rehabilitation or rehabilitated land) that has been disturbed by exploration operations	D	\$2,000
Land under rehabilitation (other than land that has been disturbed by exploration operations) Topsoil stockpile	E	\$2,000
Exploration operations: land under rehabilitation, rehabilitated land	No rate applicable	

The Rehabilitation Liability Estimate (RLE) for a Mine Activity can be calculated by multiplying the reported area of disturbance (in hectares) by the unit rate for that Activity. The RLE for the tenement is the sum of the RLE for each Mine Activity reported on that tenement. If the total RLE for the tenement is \$50,000 or less no levy will be payable.

# Mining Rehabilitation Fund Act 2012

Mine Activity Type	Category	Rate
Airstrip	C	\$18,000
Basic Raw Material Extraction - Processing equipment or stockpile associated with basic raw material extraction	C	\$18,000
Borefield	C	\$18,000
Borrow pit or shallow surface excavation (with a depth of less than 5 metres)	C	\$18,000
Building (other than workshop) or camp site	C	\$18,000
Core yard	C	\$18,000
Dam - fresh water	B	\$30,000
Dam - saline water or process liquor	A	\$50,000
Diversion channel or drain	B	\$30,000
Evaporation pond	A	\$50,000
Exploration/Prospecting Operations - Land (other than land under rehabilitation or rehabilitated land) that has been disturbed by exploration operations	D	\$2,000
Fuel storage facility	B	\$30,000
Heap or vat leach facility	A	\$50,000
Landfill site	B	\$30,000
Laydown or hardstand area	C	\$18,000
Low-grade ore stockpile (class 1)	B	\$30,000
Low-grade ore stockpile (class 2)	C	\$18,000
Mining void (with a depth of at least 5 metres) - above ground water level	C	\$18,000
Mining void (with a depth of at least 5 metres) - below ground water level	B	\$30,000
Other Cleared Land - Land (other than land under rehabilitation or rehabilitated land) that is cleared of vegetation and is not otherwise described in this Table	C	\$18,000
Plant site	B	\$30,000
Run-of-mine pad	C	\$18,000
Sewage pond	C	\$18,000
Tailings or residue storage facility (class 1)	A	\$50,000
Tailings or residue storage facility (class 2)	B	\$30,000
Topsail stockpile	E	\$2,000
Transport or service infrastructure corridor	C	\$18,000
Waste dump or overburden stockpile (class 1)	A	\$50,000
Waste dump or overburden stockpile (class 2)	B	\$30,000
Workshop	B	\$30,000
Land Under Rehabilitation	E	\$2,000

The Rehabilitation Liability Estimate (RLE) for a Mine Activity can be calculated by multiplying the reported area of disturbance (in hectares) by the unit rate for that Activity. The RLE for the tenement is the sum of the RLE for each Mine Activity reported on that tenement. If the total RLE for the tenement is \$50,000 or less no levy will be payable.



# Contaminated Site Act 2003

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- Introduced to identify, record, manage and clean up contamination in relation to land, water or a site, means having a substance present in or on that land, water or site at above background concentrations that presents, or has the potential to present, a risk of harm to human health, the environment or any environmental value.
- Under the Act, land owners, occupiers and polluters must report known or suspected contaminated sites to DWER.
- Reporting of known or suspected contaminated site , leading to classification by DWER:
  - Report not substantiated (RNS)
  - Possibly contaminated – investigation required (PCIR)
  - Not contaminated – Unrestricted Use (NCUU)
  - Contaminated – Restricted Use (CRU)
  - Remediated for Restricted Use (RRU)
  - Contaminated – Remediation Required (CRR)
  - Decontaminated (Decon)

## Key Items:

- Potentially or known contaminated site must be reported to DWER. Exception is Due Diligence assessment..
- Reporting under S72 of EP Act not applicable
- A Ministerial Statement under Part IV or a licence under Part V of the EP Act may permit the proponent/licensee to emit or discharge substances up to a specified limit. However, a licence does not negate statutory obligations under the CS Act.
- Approach to management of contaminated sites in approved Mine Closure Plan is not relevant under the CS Act
- Notice of Classification issued by DWER following reporting of a potential/known contaminated site. Sites may given priority (High, Medium, Low) regarding undertaking assessment with given timeframe.
- Memorial on Certificate of Title is placed for all classifications except RNS, NCUU and Decon.
- For mine tenements, a survey can be undertaken under LAA for creation of 'plot of land' to assign as 'site'
- Pollution incidents with the potential to cause contamination, such as spills and leaks, should be cleaned up as soon as possible after the original incident or as directed by the relevant authorities. If a spill or pollution incident is not resolved through an immediate clean-up response, the site may need to be reported to us as a known or suspected contaminated site.

Site characterisation is underpinned by NEPM (ASC) 1999 (revised 2013)

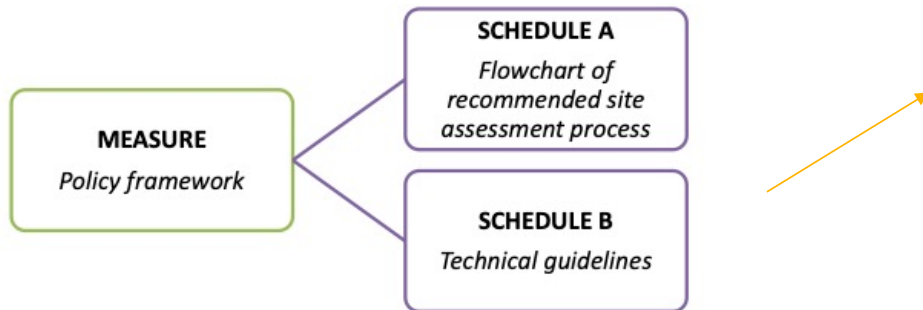


Figure 1: Structure of the ASC NEPM

### Contaminated sites guidelines

[Assessment and management of contaminated sites](#) — published December 2014, revised and updated November 2021.

- Assessing and managing contaminated sites
- Assessing risks to human health, the environment and environmental values
- Generic assessment levels specific to WA and their application
- Applying the NEPM assessment levels in WA
- Information to include when reporting on the various stages of contaminated site assessment and management
- Community engagement

[Identification, reporting and classification of contaminated sites in Western Australia](#) — published June 2017

- Identifying and reporting known or suspected contaminated sites
- Classification of contaminated sites and action required
- How to access information on known or suspected contaminated sites
- Disclosure requirements during land transactions
- Regulatory notices
- Certificates of contamination audit
- Transfer of responsibility for remediation.

[Guidelines for the assessment, remediation and management of asbestos contaminated sites \(DoH 2021\)](#)

- Framework for responding to asbestos contamination
- Assessment of asbestos-contaminated sites
- Guidance on sampling and analysis
- Remediation and validation of asbestos-contaminated sites

## Site contamination reporting framework

**Preliminary site investigation (PSI)** consists of a desktop study, a detailed site inspection and interviews with relevant personnel. A PSI may also include limited sampling and analysis. The information is used to develop an initial CSM. If contamination or sources of contamination (potential areas of concern) are identified, further detailed site investigation is necessary.

**Detailed site investigation (DSI)** assesses potential or actual contamination through an appropriate sampling and analysis program. Several phases of investigation (including risk assessment) may be required to adequately characterise the site, particularly for complex sites. The CSM is refined on an iterative basis until there is sufficient information and understanding of the site to devise risk-based strategies to manage the identified risks.

**Remedial action plan (RAP)** documents the type and extent of remediation required to ensure that the site is suitable for its current or intended future use, and to protect the surrounding environment and land uses. The plan details the clean-up techniques proposed to achieve the remedial objectives and criteria for assessing the effectiveness of the clean-up in the site validation process.

**Site remediation and validation (SRV)** is the process of cleaning up the site (remediation) and evaluating the effectiveness of the clean-up (validation). Where the remedial objectives are not met, further work may be required such as further remediation, risk assessment or ongoing site management.

**Site management plan (SMP)** documents ongoing management of the site if this is required, such as long-term monitoring and assessment of residual contamination. The SMP may require periodic revision and updating to ensure it remains relevant over time. A relevant stakeholder, such as the land owner or body corporate, must assume responsibility for maintaining and implementing the SMP.

# Water Resources Legislation

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- DWER: managing and regulating the state's environment and water resources.
- What do they do:
  - **Legislation**
  - **Licencing**
  - **Maps & Data**
  - Planning
  - Urban Water
  - Water Topics

<https://www.water.wa.gov.au/home>

## CURRENT LEGISLATION, REGULATIONS AND BY LAWS

Acts administered by the Department of Water:

- [Country Areas Water Supply Act 1947](#) 
- [Metropolitan Arterial Drainage Act 1982](#) 
- [Metropolitan Water Supply, Sewerage, and Drainage Act 1909](#) 
- [Rights in Water and Irrigation Act 1914](#) 
- [Water Agencies \(Powers\) Act 1984](#) 
- [Water Corporations Act 1995](#) 
- [Water Efficiency Labelling and Standards Act 2006](#) 
- [Water Services Act 2012](#) 
- [Waterways Conservation Act 1976](#) 

Regulations and by-laws administered by the Department of Water:

- [Country Areas Water Supply By-laws 1957](#) 
- [Country Areas Water Supply \(Clearing Licence\) Regulations 1981](#) 
- [Metropolitan Water Supply Sewerage and Drainage By-laws 1981](#) 
- [Rights in Water and Irrigation Regulations 2000](#) 
- [Water Agencies \(Entry Warrant\) Regulations 1985](#) 
- [Water Agencies \(Infringement\) Regulations 1994](#) 
- [Water Agencies \(Water Use\) By-laws 2010](#) 
- [Water Services Regulations 2013](#) 
- [Water Services \(Water Cooperations Charges\) Regulation](#) 
- [Waterways Conservation Regulations 1981](#) 

## RIWI ACT 1914

- provides for the regulation, management, use and protection of water resources.
- provides for a licensing system for taking water; and a permitting system for activities that may damage, obstruct or interfere with water flow or the beds and banks of watercourses and wetlands in proclaimed rivers, surface water management areas and irrigation districts.
- providing for the sustainable use and development of water resources, protection of their ecosystems and the environment in which water resources are situated, and assisting the integration of water resources management with other natural resources management.

## POLICIES AND GUIDELINES

### Access to water

#### *Policies for the take and use of water*

[Giving an undertaking to grant a water licence or permit](#)

[Management of unused licensed water entitlements](#)

[Managing unlicensed groundwater use](#)

[Measuring the taking of water](#)

[Water conservation/efficiency plans: achieving water use efficiency gains through water licensing](#)

[Section 5C licence tenure](#)

[Timely submission of required further information](#)

[Use of mine dewatering surplus](#)

[Use of operating strategies in the water licensing process](#)

[Water entitlement transactions for Western Australia](#)

[Western Australian water in mining guideline](#)

### Water resource assessment and planning

#### *Policies for better understanding water resources and planning for their use*

[Hydrogeological reporting associated with a groundwater well licence](#)

[Managing water reserved for use by drinking water service providers](#)

[Policy on accessing the Leederville and Yarragadee aquifers in Perth](#)

[Policy statement on water sharing](#)

### Protecting water resources

#### *Policies for protecting public drinking water supplies and the natural environment*

[Environmental management guidelines for vineyards](#)

[Environmental water provisions policy for Western Australia](#)

[Guideline for the approval of non-drinking water systems in Western Australia urban developments](#)

[Houseboats](#)

[Identifying and establishing waterways foreshore areas](#)

[Land use compatibility in public drinking water source areas](#)

[Managed aquifer recharge in Western Australia](#)

[Policy and guidelines for construction and silica sand mining in public drinking water source areas](#)

[Policy framework for inland drainage](#)

[Protecting public drinking water source areas in Western Australia](#)

[Recreation within public water source areas on crown land](#)

[Waste management of kennel operations within the Jandakot underground water pollution control area](#)

[Water resource considerations when controlling groundwater levels in urban development](#)

## Licensing

Licensing	Aspects	Detail
Licensing (RIWI Act 1914)	Water Licensing Process	<p>Staged Approach:</p> <ul style="list-style-type: none"> <li>• Stage 1: Applying for a license or permit</li> <li>• Stage 2: Validating and application</li> <li>• Stage 3: Assessing an application</li> <li>• Stage 4: Making a recommendation</li> <li>• Stage 5: Making a decision</li> </ul> <p>Detailed in:</p> <ul style="list-style-type: none"> <li>• <i>Western Australian Water in Mining Guideline</i>, Water Licensing Delivery Series, Report No 12, May 2013 (<a href="https://www.water.wa.gov.au/_data/assets/pdf_file/0019/1819/105195.pdf">https://www.water.wa.gov.au/_data/assets/pdf_file/0019/1819/105195.pdf</a>)</li> <li>• Diagram: <a href="https://www.water.wa.gov.au/_data/assets/pdf_file/0019/3484/2.1.1-water-licensing-process.pdf">https://www.water.wa.gov.au/_data/assets/pdf_file/0019/3484/2.1.1-water-licensing-process.pdf</a></li> </ul> <p>Apply online at Water Online (<a href="https://online.water.wa.gov.au">https://online.water.wa.gov.au</a>)</p>
	Types of Licenses	<ul style="list-style-type: none"> <li>• Take Water - S5C (both GW and SW)</li> <li>• Construct Wells (including soaks) - S26D</li> <li>• Interfere with Bed and Banks – S 11/17/21A</li> </ul> <p><i>Conditions are generally provided with an approved license. Compliance with these conditions are mandatory and must be reported as part of defined reporting mechanisms.</i></p>

## Maps and Data

Maps/Data	Aspects	Detail
Maps and Data  (Digital Databases)	Water Information Reporting (WIR)  <i>(DWER monitors surface water and groundwater to collect data on the quality and quantity of the state's water resources. Information collected is provided here).</i>	Shows: <ul style="list-style-type: none"> <li>• Borehole information</li> <li>• Water quality measurements</li> <li>• Surface water levels and flow</li> <li>• Groundwater levels</li> <li>• Rainfall</li> </ul>
	Perth Groundwater Map  <i>(source of groundwater information when determining locations and depths needed to drill to install a garden bore in the Perth metropolitan area).</i>	Shows: <ul style="list-style-type: none"> <li>• Areas suitable for garden bores</li> <li>• Groundwater salinity</li> <li>• Estimated depth to the base of the superficial aquifer beneath a property.</li> </ul>
	Water Register  <i>(Information about water availability and licences)</i>	You can search for either: <ul style="list-style-type: none"> <li>• a property to see if there is a current licence associated with it</li> <li>• a licence number to determine if it is valid</li> <li>• a licensee to see if they hold a water licence.</li> </ul> The search can also be used to: <ul style="list-style-type: none"> <li>• identify the water resources on a property</li> <li>• identify all the current water licences in a resource</li> </ul>
	Public Drinking Water Source Area (PDSWA) maps  <i>(Information on a drinking water catchment)</i>	Priority Areas (refer to Water Quality Protection Note 25, August 2021) ( <a href="https://www.water.wa.gov.au/__data/assets/pdf_file/0014/1733/12441.pdf">https://www.water.wa.gov.au/__data/assets/pdf_file/0014/1733/12441.pdf</a> )  Protection Zones (also called reservoir or well head protection zones)  Protected Drinking Water (groundwater or surface water) (source of drinking water)
	Floodplain Mapping Tool	Flood risk



# Water Resources Legislation

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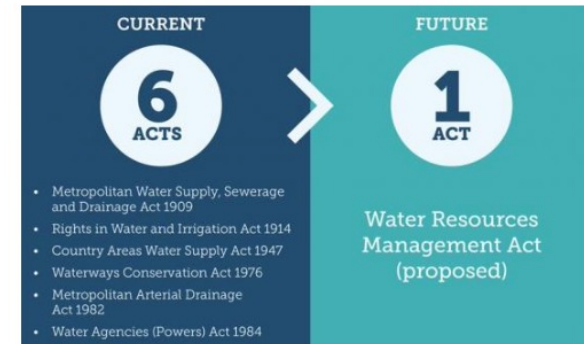
## WATER REFORM

- ❑ Water resources are currently managed under six different Acts. These Acts regulate the take and use of water, protect waterways, manage drainage and protect public drinking water sources and supply.
- ❑ In August 2018, the state government approved drafting of the *Water Resources Management Bill*. **ALL LAWS CONSOLIDATED INTO ONE ACT.**

Allow us to:

- set statutory allocation limits to keep water allocation within sustainable limits
- set the rules where water users more efficiently manage the risk of a reduction in available water due to climate and natural events
- allow assessment of licence applications only where water is available
- allow release of available water in high demand areas by competitive market processes
- enable water allocations to be varied according to seasonal availability, and
- support the development of statutory water allocation plans in high use areas.

Legislative provisions also cater for emerging technologies such as geothermal energy, hydraulic fracturing, geosequestration and in-situ leaching (into aquifers)



Key focus is **Managed Aquifer Recharge (MAR)**

- injection of recycled water into groundwater where it can be stored for later
- The new Water Resources Management Act will:
  - set the rules for accounting for water that is stored in aquifers
  - provide security of ownership of stored water
  - set the rules by which the stored water can be abstracted
  - deal with inconsistencies with other legislation e.g. *Environmental Protection Act 1986*
  - expand the available water options e.g. stormwater/wastewater re-use.

# Biodiversity Conservation Act 2016

- 1 January 2019: the *Biodiversity Conservation Act 2016 (BC Act)* and Biodiversity Conservation Regulations 2018 replaced both the *Wildlife Conservation Act 1950* and the *Sandalwood Act 1929* and their associated regulations.
- *The BC Act* provides for the listing of threatened native plants (flora), threatened native animals (fauna) and threatened ecological communities that need protection as critically endangered, endangered or vulnerable species or ecological communities because they are under identifiable threat of extinction (species) or collapse (ecological communities).
- **Regulator:** Department of Biodiversity, Conservation and Attractions (DBCA)

Topic	Key Components (not previously in Wildlife Act 1950)
Scope	<ul style="list-style-type: none"> <li>• Provides coverage of additional important matters including; habitats, communities, threatening processes, environmental pests and weeds.</li> <li>• Enhances protection for threatened species, introduces protection for threatened ecological communities and strengthens protection for whales and dolphins.</li> </ul>
Gov't Agencies	All Government Agencies are required to abide the the Act
Objectives	To conserve and protect biodiversity and biodiversity components e & to promote the ecologically sustainable use of biodiversity components in the State
Principles of ESD	Decision makers must take into account the Principles of Ecologically Sustainable Development (ESD) (precautionary, etc.)
<i>Threatened animals and plants, Threatened Ecological Communities, Threatening processes</i>	Capacity to list: <ul style="list-style-type: none"> <li>• species as “critically endangered”, “endangered”, “vulnerable”, “extinct”, “extinct in the wild” (i.e. the IUCN Red List threat categories).</li> <li>• communities as “critically endangered”, “endangered”, “vulnerable”, “collapsed” (destroyed).</li> <li>• threatening processes as “key threatening processes”.</li> </ul>
Reporting	<ul style="list-style-type: none"> <li>• Reporting of threatened species and communities discovered in biological surveys</li> <li>• <b>Fine (up to \$50,000) for people who do not report threatened species or communities found in Environment Protection Act 1986 surveys.</b></li> </ul>
Critical Habitat	Habitat critical to the survival of a threatened species or community can be listed and placed on a publicly available register.
Ministerial Guidelines	<ul style="list-style-type: none"> <li>• Publicly available Ministerial Guidelines to provide community advice of decision-making considerations.</li> <li>• Guidelines must be developed for fine detail of threatened species listing criteria and standards (IUCN Red List).</li> </ul>

Source: <https://www.dbca.wa.gov.au/sites/default/files/2019-10/Biodiversity%20Conservation%20Act%202016%20summary%20table.pdf>

# Biodiversity Conservation Act 2016

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## Conservation Codes for Flora and Fauna:

- Threatened Species
- Extinct Species
- Specially Protected Species
- Priority Species

Source: <https://www.dpaw.wa.gov.au/images/documents/plants-animals/threatened-species/Listings/Conservation%20code%20definitions.pdf>

## Current Lists of Threatened Species and Ecological Communities

### Threatened and priority fauna list

- [Threatened Fauna - Specially Protected Fauna Notice 229.65 KB](#)
- [Threatened and Priority Fauna List 73.66 KB](#)
- [Summary of Changes to Specially Protected Fauna Notice 121.19 KB](#)
- [Conservation codes for Western Australian fauna and flora 133.13 KB](#)

Source: <https://www.dpaw.wa.gov.au/plants-and-animals/threatened-species-and-communities/threatened-animals>

Under DBCA, the Parks and Wildlife Service oversees and participates in programs that require State-wide coordination including threat and ecosystem management, regulatory enforcement, community education, input to State regulatory processes and industry monitoring.

# Aboriginal Heritage Act 1972

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## Aboriginal Heritage Act 1972

*'An Act to make provision for the preservation on behalf of the community of places and objects customarily used by or traditional to the original inhabitants of Australia or their descendants, or associated therewith, and for other purposes incidental thereto.'*

### Protects:

#### Places

- 'All places' that Aborigines used for traditional culture, sacred, ritual or ceremonial sites

#### Objects

- 'All objects, whether natural or artificial ... [that are of] sacred ritual or ceremonial significance to Aboriginal persons used for traditional cultural life'

### Key Components:

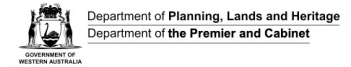
**S.17:** it is an offence to excavate, destroy, damage, conceal or in any way alter an Aboriginal Site.

### S.18:

- if a landowner wishes to use their land in such a way that would be in breach of s. 17, they can apply for consent to proceed with their intended land use under s. 18 of the Act.'
- An accepted application of s. 18 provides the land owner with legal consent to cause destruction, damage or alterations to an Aboriginal site as mentioned above, and removes the criminality which would usually exist with a breach of s.17.

### S18 Process:

Submit Section 18 Notice (*effective until May 2022, then new form comes into affect*) which is an online submission.



## Aboriginal Heritage Due Diligence Guidelines

Version 3.0  
30 April 2013

[https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines\\_0.pdf](https://www.wa.gov.au/system/files/2021-05/AH-Due-diligence-guidelines_0.pdf)



Department of Planning,  
Lands and Heritage

### Section 18 Notice

Reference code: S4C68P4D

Getting Started

Section 18

Lodgement

# Aboriginal Heritage Act 1972

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## Aboriginal Cultural Heritage Bill 2021

- Intended to provide better protection for Aboriginal cultural heritage
- Compliance to rules of the Bill using Aboriginal Heritage Inspectors
- Local Aboriginal Cultural Heritage Services (LACHs) to be set up in each are of WA.
- Create a new Aboriginal Cultural Heritage Directory where people can put a record of Was Aboriginal cultural heritage
- Aboriginal people can appl to have important places made Protected Areas
- Miners, developers and others with activities that may impact cultural heritage must tale to the right Aboriginal people for that area

### Status:

#### Current:

- The Bill drafting continues
- Government determines date for tabling Bill in Parliament and public release

#### Next Steps are the development of key documents that support the Bill:

- Activity Categories and timeframes for the regulations
- Aboriginal Cultural Heritage Management Code
- Aboriginal Cultural Heritage Management Plan template
- Consultation guidelines.

### Key Components

- Tiered Assessment Process
- Development of AHC Management Plans
- The role of determining whether Aboriginal Cultural Heritage is present rests with the Aboriginal people

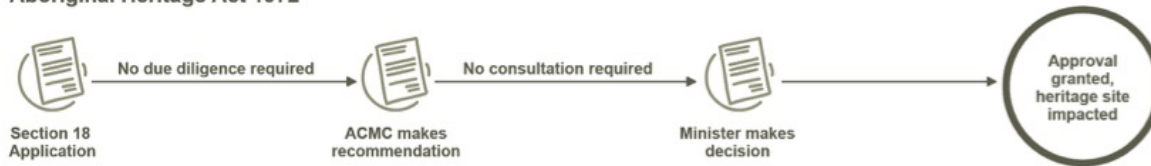
<https://www.wa.gov.au/government/document-collections/the-aboriginal-heritage-act-reform-process#comparisons>

# Aboriginal Heritage Act 1972 (WA)

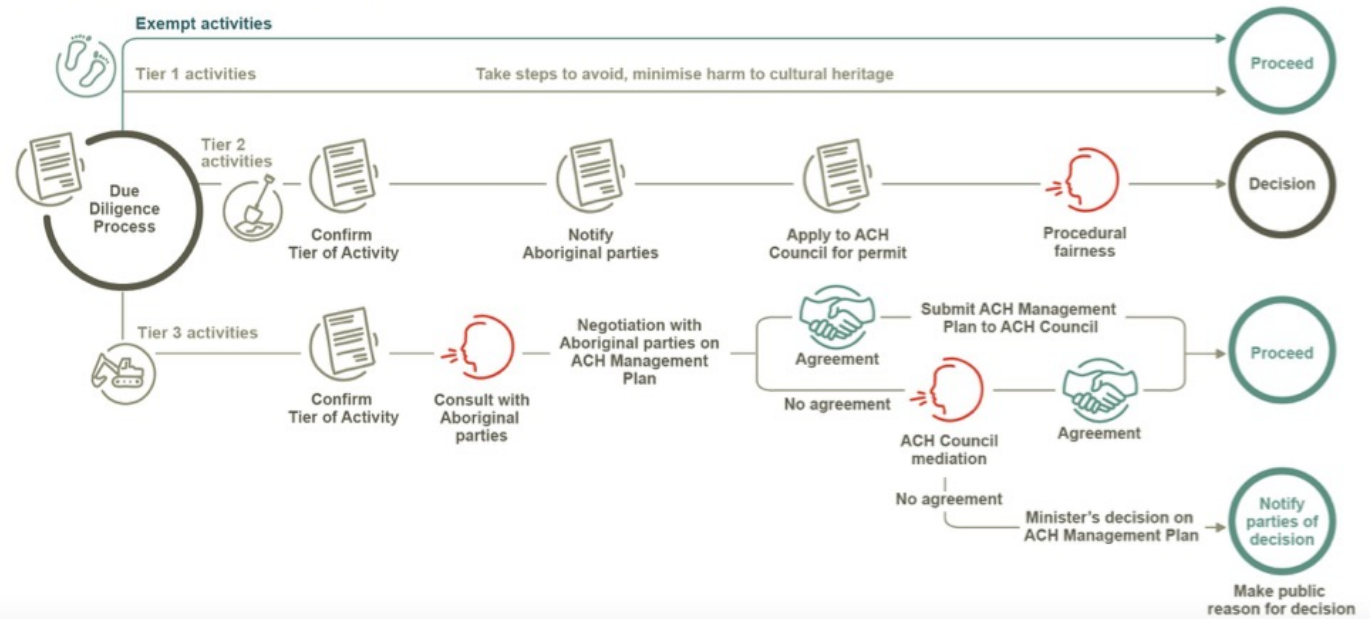
## Comparison: AHA Section 18 process and the Aboriginal Cultural Heritage Bill 2021 tiered assessment process

<https://www.wa.gov.au/government/document-collections/the-aboriginal-heritage-act-reform-process#comparisons>

### Aboriginal Heritage Act 1972



### Aboriginal Cultural Heritage Bill 2021



- ❑ *Environmental Protection Act 1986*
  - Overview
  - Part IV: Referral and Environmental Impact Assessment Approvals
  - Part V: Environmental Regulation
    - Division 2: Native Vegetation Clearing
    - Division 3: Prescribed Premises, Works Approvals and Licences
- ❑ *Environmental Protection and Biodiversity and Conservation Act 1999 (Federal)*
- ❑ *Mining Act 1978*
  - Program of Works
  - Mining Proposal
  - Mine Closure Plan
- ❑ *Mine Rehabilitation Fund Act 2012*
- ❑ *Contaminated Sites Act 2003*
- ❑ *Water Resources Legislation*
- ❑ *Biodiversity Conservation Act 2016*
- ❑ *Aboriginal Heritage Act 1972*

# BACKGROUND





# Environmental Protection Act 1986

## PARTS OF THE ACT:

- Part I: Preliminary
- Part II: Environmental Protection Authority
- **Part III: Environmental Protection Policies**
- **Part IV: Environmental Impact Assessment**
- **Part V: Environmental Regulation**
- Part VA: Financial Assurances
- Part VI: Enforcement
- Part VIA: Legal Proceedings and Penalties
- Part VII: Appeals
- Part VIII: General
- Part IX: Transitional
- Part X: Validation

**Part III: Environmental Protection Policies**  
*Allows for the drafting, preparing and publishing of environmental protection policies (EPP) to protect any portion of the environment, and/or prevent, control or abate pollution or environmental harm*

- Four EPPs:**
- Environmental Protection (Western Swamp Tortoise Habitat) Policy 2011
  - Environmental Protection Goldfields Residential Area Sulfur Dioxide Policy and Regulations 2003
  - Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999 and Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992
  - Environmental Protection (Peel Inlet – Harvey Estuary) Policy 1992