

Clearing of vegetation

in the Shire of Murray



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Clearing of native vegetation

Trees and native plants are fundamental to the Shire of Murray's natural environment and play a key role in shaping its distinct local character. **Native vegetation** is vegetation that is **indigenous** terrestrial or aquatic vegetation and includes dead vegetation. The legislative provisions relating to the clearing of native vegetation is governed by the Department of Water and Environmental Regulation (DWER) and includes various clearing exemptions.

Why should we retain native vegetation?

Native trees are vital to our environment and wellbeing. A single large tree can supply enough oxygen for four people each day. But their importance goes far beyond clean air. Mature native trees provide **critical nesting hollows** for endangered species including our local Forest Redtail Black Cockatoo, Carnaby's Black Cockatoo and Baudin's Black Cockatoo, which rely on these hollows to breed and raise their young. These hollows can take **over 100 years to form**, making old trees irreplaceable once removed.

Beyond supporting wildlife, these trees play a key role in **fighting climate change**. They absorb carbon dioxide; help reduce stormwater runoff and **cool our suburbs**. Large trees provide natural shade and help reduce the **urban heat island effect**, where built-up areas become significantly hotter than surrounding rural land due to concrete, asphalt, and lack of vegetation. This natural cooling is essential to keeping our communities liveable in a hotter and drier climate.



In addition to the environmental benefits, native vegetation plays an important role in our community. The **natural character and amenity of the Shire can be attributed to the surrounding landscape** which includes the Northern Jarrah Forest, the Peel Harvey Estuary, the Murray River, farmland and several bushland and wetland areas across the Peel Harvey Catchment. Many locals and tourists come to Murray to escape the city and embrace the rural country lifestyle.

Because of these many benefits, the Shire is working closely with residents and developers to **protect mature trees wherever possible**, preserving nesting hollows, cooling our neighbourhoods, and building resilience to climate change. By working together, we can safeguard these irreplaceable assets for both our local wildlife and future generations.

Definitions

Arborist Report - A report prepared by a suitably qualified arboriculturist (AQF Diploma or equivalent) with demonstrated experience, addressing the health, structure, viability and risk of the tree, and any proposed protection or mitigation.

Biodiversity – the variety of all life forms; the different plants, animals and micro-organisms, the genes they contain, and the ecosystems of which they form a part of.

Clearing – ringbarking, cutting down, topping, lopping, removing, pruning, transplanting, filling or excavating ground around, injuring (whether by injecting or otherwise) or wilful destructions of any bushland or tree, including draining, flooding or burning of the land.

Native vegetation - vegetation that is indigenous terrestrial or aquatic vegetation and includes dead vegetation

Natural areas - an area that contains native species or communities of flora and fauna in a relatively natural state. Natural areas can be areas of native vegetation, vegetated or open water bodies (lakes, swamps), or waterways (rivers, streams, creeks – often referred to as channels, wetlands, or estuaries), springs, rock outcrops, bare ground (generally sand or mud), caves, coastal dunes or cliffs.

Protection – means that the tree(s) and/or natural area are covered by a secure mechanism providing the highest level of long-term protection. Secure protection mechanisms in the Shire of Murray are:

- a) Public reserves vested for the purposes of conservation (e.g. Department of Biodiversity, Conservation and Attractions (DBCA), managed conservation estate or Local Conservation and Bushland Reserve).
- b) Land under a conservation covenant registered with a recognized conservation organization (e.g. National Trust or DBCA)
- c) Regional Open Space with a management plan that explicitly states that the area's vegetation is protected from clearing in perpetuity.

Retention – means that the tree(s) and/or natural area is retained on the site, but there is no mechanism which is proven to secure a long-term protection to them. Whilst most native vegetation clearing in the Shire requires a permit from the Department of Water and Environmental Regulation (DWER), there are numerous exemptions under the Environment Protection (Clearing of Native Vegetation) Regulations which mean that the natural area may not be protected in the long-term.

Significant pruning - removal of more than one-third of the trees canopy; and/or the pruning of branches or roots that would affect the health and/or stability of the tree; and/or the pruning of branches that contain hollows for wildlife.

Significant tree – means any tree deemed worthy of retention for its values based on the following criteria:

- a) Habitat value, if the tree has a diameter at breast height (DBH) greater than 300mm; and/or

- b) Biodiversity value, if the tree is a native species greater than 8m in height (>6m for native *Banksia* spp.); and/or
- c) It is considered to have heritage, social or amenity values to the community as determined by an endorsed Significant Tree Register and/or confirmed because of feedback received from the public as part of any consultation process.

Tree-damaging activity – means:

- a) The killing or destruction of a tree; and/or
- b) The removal of a tree; and/or
- c) The severing of branches, limbs, stems or trunk of a tree; and/or
- d) The ringbarking, topping or lopping of a tree; and/or
- e) And other substantial damage to a tree.

Tree – a woody perennial plant with an elongated stem, or trunk, that is greater than three metres in height or three metres in canopy width and supporting branches and leaves.

Clearing for development in Bushfire Prone Areas

New habitable developments, such as a house, granny flat or a home business may require a bushfire attack level (BAL) rating to be obtained as part of the Building Permit process. In some instances, a Bushfire Management Plan (BMP) may also need to be prepared by an appropriately qualified bushfire consultant and planning approval obtained. This is normally only where a higher BAL rating exists such as BAL-40 or BAL-FZ.

Identifying potential locations for new structures in bushfire prone areas should only occur once BAL ratings are known and consideration given to the BAL rating as well as the potential impacts on native vegetation. **Importantly, native vegetation must not be cleared for a structure or Asset Protection Zone (APZ) prior to a Building Permit being issued for that structure.**

The Shire generally does not support the clearing of native vegetation to reduce the BAL rating to less than BAL-29.



Clearing vegetation within a Building Envelope

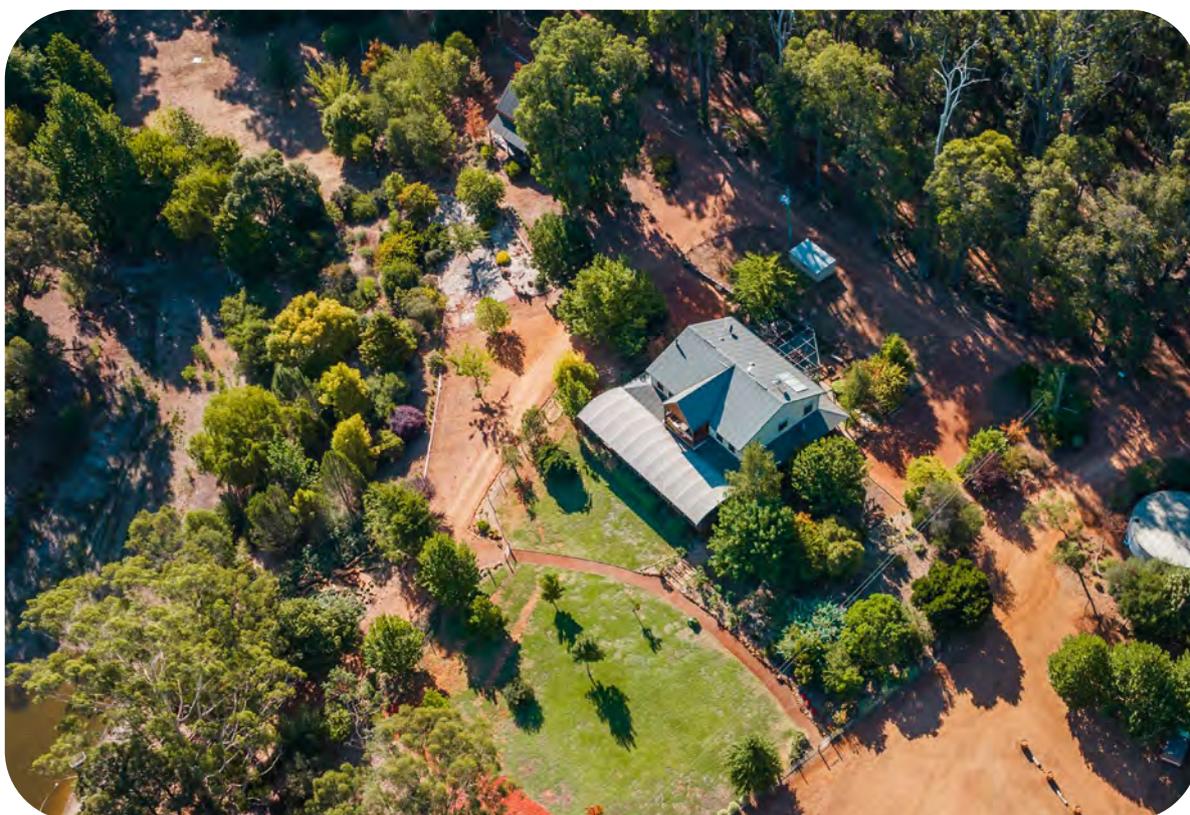
A building envelope is a designated area within a lot where all buildings and effluent disposal facilities must be located. Building envelopes typically range between 1000m² and 4000m² in size.

The presence of a building envelope on a lot **does not** indicate that this area can be cleared in its entirety of native vegetation especially when no building permit has been obtained. The **clearing within a building envelope is generally only permitted to the minimum extent necessary to support the approved development** (Item 1 of regulation 5 of the Clearing Regulations). Where no development is proposed, **removal of vegetation will need either Shire or Department of Water and Environmental Regulation (DWER) approval.**

In some instances, building envelopes can pre-date bushfire and environmental requirements resulting in building envelopes that may no longer be desirable or difficult to achieve appropriate bushfire and environmental outcomes. In these instances, the planning team will be happy to work with you to relocate the building envelope to a more appropriate location.

If there are no designated building envelope, buildings and septic systems must be placed to achieve minimum boundary setbacks and where they have the least impact on the environment and require the least removal of native vegetation.

If you are unsure if approval is required for the removal of vegetation, please contact one of our Environmental team members who will be happy to assist. Unauthorised clearing of native vegetation can have adverse environmental impacts and result in fines and/or criminal convictions for landowners.



Unauthorised clearing of native vegetation

In Western Australia, the clearing of native vegetation or modification of watercourses without the appropriate permits or approvals may constitute an offence under the Planning and Development Act 2005 and the Environmental Protection Act 1986. Individuals found guilty of unlawful clearing may face fines of up to \$1,000,000.

Key points to note:

- Clearing native vegetation is prohibited unless carried out under a valid clearing permit or an exemption under the *Environmental Protection Act 1986*.
- Most non-native and invasive tree species can generally be removed without a permit, as they often compete with native vegetation for resources such as space and nutrients. Please check with the Shire prior to the removal of **any** trees.

State Government permits and approvals

Some types of land use or development may need approval from State Government agencies, in addition to local government planning consent. In particular:

- Clearing **native vegetation** usually requires a **clearing permit** from the Department of Water and Environmental Regulation (DWER), unless an exemption applies.
- **Works near watercourses** (e.g., creeks, wetlands) may require a **beds and banks permit** from DWER.
- Clearing or development **impacting protected or threatened species** or **Threatened Ecological Communities** may also require a separate permit from the Department of Biodiversity, Conservation and Attractions (DBCA).

Note that Local Government requirements do not negate the need for you to consider relevant state government clearing legislation and vice versa.

Under the *Environmental Protection Act 1986*, clearing native vegetation is prohibited unless:

1. **Permitted** through a DWER-issued clearing permit, or
2. **Exempt** under:
 - **Schedule 6** of the Act (certain legal/statutory exemptions), or
 - The [Environmental Protection \(Clearing of Native Vegetation\) Regulations 2004](#) (Note these **do not apply in environmentally sensitive areas**).

For more details, visit:

- [Clearing permits - Department of Water and Environmental Regulation](#)
- [DBCA Licences and Permits](#)

Frequently Asked Questions (FAQ's)

When do I need Development approval to undertake a tree-damaging activity?

You will need Development Approval to undertake tree damaging activities in the tree is deemed worthy of retention for its values based on the following criteria:

- d) Habitat value, if the tree has a diameter at breast height (DBH) greater than 300mm; and/or
- e) Biodiversity value, if the tree is a native species greater than 8m in height (>6m for native *Banksia* spp.); and/or
- f) It is considered to have heritage, social or amenity values to the community as determined by an endorsed Significant Tree Register and/or confirmed because of feedback received from the public as part of any consultation process.

When am I exempt from needing Development approval to undertake a tree-damaging activity?

Development Approval is not required for tree damaging activities if they meet the following exemptions:

- The tree does not meet the definition of a significant tree.
- The tree is classed as a weedy species on a National, State or local area weed register.
- Minor tree pruning that does not meet the definition of significant pruning.
- Clearing is undertaken to meet a Bushfire Compliance Notice issued by the Shire of Murray
- Removal of dangerous trees or limbs that have a high probability of failure as determined by a qualified arborist report that is provided to the Shire's Environmental team
- Where the tree(s) are not designated for retention on a Structure Plan or Local Development plans.
- Required to be removed to carry out a development and/or use for which Development Approval and/or a Building Permit has been granted.
- Required to be removed for a vehicle access way (where there is no other suitable location).
- Required to be removed for construction of an approved effluent disposal system (where there is no other suitable location).

Who is responsible for trees on private property?

The landowner is responsible for any trees growing on their land; to be sure where your land ends, you may have to obtain a survey report (at your expense).

I've got State approval; do I still need Shire approval?

Yes, one legal requirement does not negate the other.

Do I need Shire approval to trim my trees?

You are permitted to trim up to one third of a trees overall canopy without Development approval on the condition that it does not impact the structural integrity of the tree or remove habitat hollows. Trimming of any more than a third of the canopy will require Development approval from the Shire.

My neighbour's tree is overhanging my fence and dropping leaves, what can I do?

You are permitted to trim the overhanging portion of the tree or branch up to the fence line of your property, given that it is less than one third of the total canopy size, does not impact the structural integrity of the tree or remove habitat hollows.

I have some non-native trees on my property; do I need Shire approval to remove them?

Non-native trees greater than 300mm diameter at breast height (DBH), that are not a weedy species, will require Development approval from the Shire to remove. This is because non-native trees can also have environmental and social benefits. It is advised that landowners contact the Shire's Environmental team before removing any non-native to confirm the species and check your requirements.

Can I 'tidy up' the bush on my property?

Even if you're just intending to 'tidy up' the bush on your property, if you are removing native vegetation of any form, you may need a permit.

If you're unsure whether your "tidying up" requires a permit, it's best to contact DWER directly to clarify. They can advise you on the specific regulations and exemptions that apply to your situation.

You can find more information on removing native vegetation here:

<https://www.wa.gov.au/government/publications/guideline-native-vegetation-clearing-referrals>

Can I clear vegetation to install a fence or fix my existing fence?

Regulation 5 of the Clearing Regulations provides an exemption for clearing for the construction or maintenance of a fence line. If you are the owner of the property, you may clear along a fence line on or within your property to the width necessary to provide access to construct or maintain a fence, provided that the clearing, combined with other limited exempt clearing (under the Regulations) on the property, does not exceed five hectares in the financial year in which the clearing takes place.

It is important to read the exemption which is made up of the following requirements or elements:

1. It authorises the clearing of native vegetation on Crown land (e.g. a road reserve) along a fence line. This exemption applies to the owner of the land on which the clearing is to take place, therefore in the case of a road reserve, written approval from the Shire (in most cases) must be obtained prior to undertaking the clearing. **This exemption does not apply in Environmentally Sensitive Areas;** and

2. The clearing can only be for the purpose of providing access to construct or maintain a fence between private property and Crown land; and
3. (as a limitation to these first two parts of the exemption) –**the clearing can be no more than 1.5 metres from the fence line.**

If the intended clearing does not satisfy all these requirements, then the exemption does not apply, and a clearing permit is required from the Department of Water and Environmental Regulation. Threatened flora may exist along a fence line in which case it would need to be avoided, or a clearing permit would be required.

Can I clear vegetation on my property for a fire break?

The clearing of native vegetation by an owner or occupier of land to construct or maintain a firebreak is exempt from requiring a clearing permit if the clearing is in accordance with the Shire's firebreak notice under section 33 of the *Bush Fires Act 1954* (Schedule 6, clause 1 of the *Environmental Protection Act 1986*).

All property owners/occupiers are required to comply with the annual Fire break Notice issued by the Shire, or risk penalties. Property owners may be required to carry out some clearing activities to make their property safe and accessible during bushfire season, including:

- Asset Protection Zone maintenance (20m surrounding habitable dwellings with an allowance of 15% total canopy coverage within this area if canopies are not touching)
- Firebreaks

For more information on bushfire compliance, please contact the Shire Ranger Service.

Can I remove the dead tree on my property?

Mature native trees, even after they have died, play a vital role in supporting biodiversity. They often contain natural hollows that can take over 100 years to form—providing essential nesting sites for endangered species such as Black Cockatoos.

Because these trees offer irreplaceable habitat, they should be preserved wherever possible.

If you're considering removing a dead tree on your property, please contact the Shire first. Our officers will inspect the tree to assess its potential as wildlife habitat before any action is taken.

Can I clear for firewood?

Item 5 of Regulation 5 of the *Clearing Regulations* provides an exemption for clearing native vegetation to collect firewood, under the following conditions:



- The firewood is for **domestic heating or cooking** by the **owner or occupier** of the land.
- The clearing **must not kill live vegetation** or **prevent natural regrowth**.
- Firewood must be sourced **only where it cannot reasonably be obtained** from vegetation already cleared for another purpose.
- The area cleared under this exemption, together with other exempt clearing on the property, **must not exceed 1 hectare** in the same financial year.
- **The firewood must not be sold.**

This exemption applies only to the **owner or occupier** of the land where the clearing occurs and **does not apply within Environmentally Sensitive Areas**.

Please inform the Shire of Murray **prior** to undertaking any clearing for firewood activities.

My property has a section of revegetation; can I remove it?

Native vegetation that has been deliberately planted is legally protected and **cannot** be removed without permission from the Shire.

Under Regulation 4 of the Clearing Regulations, "*native vegetation*" includes plants that were deliberately planted (either on land or in water) if:

1. **The planting was funded by someone other than the landowner**, and it was done for the purpose of biodiversity conservation or land conservation.
2. **There is a legal agreement in place to protect the plants.** This could include:
 - A conservation agreement under the *Soil and Land Conservation Act*.
 - A special agreement with the *National Trust of Australia* to protect the plants.
 - A legal commitment under the *Transfer of Land Act* to preserve the vegetation.
 - Or any other formal, legally binding agreement to establish or maintain the plants.



**Shire of
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