



Conservation earthworks - legal requirements of landholders

The Department of Primary Industries and Regional Development (DPIRD)

The Commissioner of Soil and Land Conservation, with support from DPIRD staff, manages the *Soil and Land Conservation Act 1945* to mitigate the risk of land degradation due to practices that may adversely affect land and water.

DPIRD's website explains a landholder's obligation under the Act and contains relevant information regarding the management of salinity and soil conservation earthworks.

Soil and Land Conservation Act 1945

The Act covers the mitigation and repair of land degradation which includes soil erosion, salinity, eutrophication, flooding and the removal or deterioration of natural or introduced vegetation that may be detrimental to the present or future use of the land.

Surface water management

Conservation earthworks can ameliorate (lessen) or exacerbate (make worse) land degradation.

[Surface water earthworks](#) only intercept and redirect surface water flow, and are used where there is a risk of water erosion, where water movement control or water harvesting is required, and/or as part of a water management program.

DPIRD recommends that surface water management is part of a whole farm or whole catchment water management plan.

Each landholder has a duty of care to make sure that flows from earthworks are not discharged indiscriminately on a neighbouring property (which may also be covered by common law) and that stream flows are not significantly diminished or degraded.

To avoid degradation associated with earthworks, DPIRD recommends using expert advice to plan the works and using appropriately qualified contractors when constructing works.

The Commissioner and DPIRD do not require notification to undertake surface water management earth works. However, any land degradation caused by any of these surface water management options is covered by the [Soil and Land Conservation Act 1945](#).



Groundwater management

Under the [Soil and Land Conservation Regulations 1992](#), an owner or occupier of land must give at least 90 days notice to the Commissioner of Soil and Land Conservation of an intent to drain or pump groundwater to control salinity, and discharging that water onto other land, into other water or into a watercourse, even on the same property. The notice must be in writing using the [notice of intent to drain or pump \(NOID\) form](#).

[Draining or pumping groundwater](#) can help to lower watertables and alleviate problems with salinity and may be a part of an integrated water and salinity management program. This also applies to desalination systems and the discharge of waste water from desalination systems.

Drainage or pumping to remove groundwater are common strategies to assist management of saline areas.

The Department of Water and Environmental Regulation (DWER)

DWER administers the [Rights in Water and Irrigation Act 1914](#). A permit is required in a proclaimed surface water area when you intend to obstruct or interfere with the beds and banks of a watercourse. More information is available from:

- Information sheet, [Do I need a permit?](#)
- Information sheet, [Supplementary Information for Permit Applications to Interfere with Beds or Banks of a Watercourse](#)
- Map, [Surface Water Proclamation Areas](#)

DWER also administers the clearing provisions of the [Environmental Protection Act 1986](#). Clearing native vegetation is an offence, unless done under a clearing permit or the clearing is for an exempt purpose. More information is available from:

- [Clearing permits](#)

The Department of Biodiversity Conservation and Attractions (DBCA)

Landholders might need to comply with [legislation administered by the DBCA](#).

Waterways and wetlands in catchments are important for nature conservation and local ecology as well as local drainage and floodwater discharge. Avoid disturbing the normal patterns of flow and the natural water balance of existing ecosystems.



The Department of Planning, Lands and Heritage (DPLH)

All Aboriginal sites in Western Australia are currently protected under the *Aboriginal Heritage Act 1972* (1972 Act) and it is an offence to harm an Aboriginal site without the prior issue of an approval under the 1972 Act. In December 2021 the Parliament of Western Australia passed the [Aboriginal Cultural Heritage Bill 2021](#) which once proclaimed will replace the 1972 Act as the State's legislation for the protection of Aboriginal cultural heritage. All queries regarding activities that might harm Aboriginal cultural heritage should be directed to DPLH info@dplh.wa.gov.au.

Local Government Authority

Your Local Government Authority (LGA) may have by-laws and other restrictions on earthworks and water movement from those earthworks. Check with your LGA before implementing any conservation earthworks.

Common law

Earthworks and other activities on your farm that adversely affect a neighbour may be covered by common law (laws made by the Courts and not by legislation).

To avoid conflicts requiring court action, comply with legislative requirements (which always overrides common law), and consult with any person or organisation that may be affected by your conservation earthworks.

C. McConnell

Cecilia McConnell

Commissioner Soil and Land Conservation

Department of Primary Industries and Regional Development

E: commsoil@dpird.wa.gov.au