

Simplified Pastoral Land Clearing Applications policy

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1. Terms used

| Term | Definition |
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| AAPA | Aboriginal Areas Protection Authority |
| Act | <i>Pastoral Land Act 1992</i> |
| Accepted application | An application that has been assessed by the department as containing all of the information necessary for assessment/processing to begin |
| Application | Simplified pastoral land clearing application as specified in Schedule 1 of the PLC Guidelines |
| Board | Pastoral Land Board |
| Clearing extent | The extent of the proposed clearing footprint |
| Clearing of native vegetation | As defined in the PLC Guidelines |
| Delegate | The Delegate is the Chief Executive Officer or the Executive Director Rangelands Division in the Department of Environment, Parks and Water Security. |
| Department or DEPWS | NT Department of Environment, Parks and Water Security |
| DITT | Department of Industry, Tourism and Trade |
| DTFHC | Department of Territory Families, Housing and Communities |
| Lessee | The owner of a pastoral lease as defined in the <i>Pastoral Land Act 1992</i> |
| Lodged application | An application made to the department on the approved form. Only accepted applications are assessed once it has been advertised. |
| NT EPA | Northern Territory Environment Protection Authority |
| NTPS Land Clearing Guidelines | Northern Territory Planning Scheme Land Clearing Guidelines |
| PLC | Pastoral Land Clearing |
| PLC Guidelines | Northern Territory Pastoral Land Clearing Guidelines |
| Permit | A PLC permit granted by the Delegate under section 38(1)(h) of the Act |
| Polygon | A polygon is used to delineate individual clearing areas comprising the entire proposed/permitted clearing extent. The area (hectares) and perimeter (metres) for individual polygons can be measured. |
| Spatial data | A shapefile (or KML) of the proposed clearing extent is required to be submitted as part of an application |

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| Standard PLC application | A standard PLC application can be for any size. The process includes a full technical assessment and has a six month timeframe. |
| Unconstrained land | Land, which is defined as the most suitable soil and land resources with low biological and cultural value. |

2. Purpose

To provide clear and transparent guidance to land clearing applicants and the community on the Simplified Pastoral Land Clearing (PLC) application and assessment process.

3. Objectives

To:

- clarify that an application must be complete before assessment and processing commences (an accepted application).
- clarify that an application must be for the clearing of native vegetation on land that is considered unconstrained land and meets the requirements of the Northern Territory Pastoral Land Clearing Guidelines (PLC Guidelines), specifically Schedule 1.
- outline the processes the department will follow in processing applications.

4. Scope

This policy only applies to Simplified PLC applications as specified in Schedule 1 of the PLC Guidelines (see Appendix 1).

This policy does not apply to:

- standard PLC applications; or
- the 50ha delegated pastoral land clearing applications as specified in the PLC Guidelines.

5. Commencement

This policy commences in March 2021.

6. Context

This policy is intended to be read subject to the *Pastoral Land Act 1992* (the Act) and the PLC Guidelines.

The purpose of the Simplified PLC application category is to promote the ecologically sustainable development of the Northern Territory. This category requires lessees to develop unconstrained land, which is land generally defined as having the most suitable soil and land resources with low biological and cultural value. As such, Simplified PLC applications are required to meet the criteria outlined in Schedule 1 of the PLC Guidelines thereby reducing environmental complexity and enabling an expedited assessment and approvals process (see Appendix 1 - Flowchart for Simplified PLC applications).

6.1. Powers and functions under the Pastoral Land Act 1992

The Act provides the overarching legislative framework for the administration and management of pastoral land. Unless permitted by or under the Act, a lessee will not clear any pastoral land except with and in accordance with the written consent of the Pastoral Land Board (the Board) or guidelines, if any, published by the Board.

The Board has published the PLC Guidelines which outline the requirements for lodging an application for clearing native vegetation on pastoral land. The PLC Guidelines include *Schedule 1 – Simplified PLC Applications* which specify the criteria an applicant is required to meet in order to lodge an application.

6.1.1. Delegations

In accordance with section 24 of the Act, the Board may delegate its power under the Act to consent to clearing native vegetation on pastoral land. The Board has, by resolution, determined that the Chief Executive Officer of DEPWS and the Executive Director, Rangelands Division, DEPWS may determine Simplified PLC applications as per Schedule 1 of the PLC Guidelines.

6.2. Rules for applications

The following rules apply to Simplified PLC applications:

- The proposed clearing extent must not exceed 1,000ha.
- A single polygon size must not exceed 500ha.
- The proposed clearing extent must satisfy the criteria outlined in Schedule 1 of the PLC Guidelines including:
 - Proposed Use – applications lodged through the Simplified PLC process are required to be for pastoral purposes only. If an application is for non-pastoral purposes the applicant must go through the standard process and a non-pastoral use permit will be required.
 - Non-irrigated purpose – the Simplified PLC process includes desktop assessment only. As such a proposed use can only be for non-irrigated purposes. In the future, if the applicant wishes to undertake irrigation, a variation will be required which may include a full technical assessment to ensure suitability, which has a six month timeframe.
 - Buffers – the buffer widths outlined in Schedule 1 of the PLC Guidelines must be met. If during desktop assessment it is determined that the clearing extent does not meet the required buffer width, the applicant will be given the following options:
 1. Amend the proposed clearing extent to align with the required buffer width and the application can proceed; or
 2. Don't amend the proposed clearing extent and the application will revert to the standard PLC process, for full technical assessment, which has a six month timeframe.

7. Applications for pastoral land clearing permits

7.1. Prior to lodging an application

Specific advice is required to be sought from the following government departments prior to lodging an application. If a government department advises that the application does not satisfy the relevant criteria the application will be processed through the standard application process, unless amended accordingly.

7.1.1. Flora and Fauna Division, DEPWS

Applicants must provide the Flora and Fauna Division, DEPWS with specific information on the proposal, as outlined in the *Biodiversity Assessment* section of the Simplified PLC Application form. The Division will assess the information and provide advice on whether the proposal is satisfactory including:

- A low likelihood of impacting threatened species
- A low likelihood of impacting potential habitat of threatened species
- A low likelihood of impacting regional biodiversity
- Sensitive features relevant to the proposed clearing extent have been adequately identified, valued and buffered in accordance with Schedule 1
- Wildlife corridor configuration meets the NTPS Land Clearing Guidelines or an acceptable variation.

Flora and Fauna Division will provide a response within five business days of receiving a completed template containing necessary information to enable assessment.

7.1.2. Agricultural Division, DITT

Applicants must provide Plant Industries, DITT with specific information on the proposal, as outlined in the *Agronomy Assessment* section of the Simplified PLC Application form. DITT will assess the information and provide advice on whether the proposed pasture / crops to be planted are suitable. DITT will provide a response within five business days of receiving a completed template containing the necessary information to enable assessment.

7.1.3. Heritage Branch, DTFHC

Applicants are required to consider the presence of declared heritage places or archaeological sites within the meaning of the *Heritage Act 2011*. Applicants must provide Heritage Branch, DTFHC with specific information as outlined in the *Heritage Assessment* section of the Simplified PLC Application form. Heritage Branch will assess the information and provide advice indicating if there are known heritage places within the proposed clearing extent. The Heritage Branch will provide a response within five business days of receiving a completed template containing the necessary information to enable assessment.

7.1.4. AAPA

An applicant is required to consider the presence of sacred sites within the meaning of the *Northern Territory Aboriginal Sacred Sites Act 1989* and the risk that the proposed work will impact such sites. The applicant must contact AAPA for an Abstract of Records or an Authority Certificate. Applications for an Abstract of Records can usually be processed in less than two weeks.

It is important to note that an Abstract of Records is not a definitive way of knowing if there are sacred sites in a given area and will not provide a pastoral lessee with a defence against prosecution in the event a sacred site is damaged or interfered with. Such defence is only available where the lessee has obtained, and complied with, an Authority Certificate.

7.1.5. NT EPA

If a land clearing proposal has the potential to have a significant impact on the environment, applicants are required to refer the proposal to the Northern Territory Environment Protection Authority (NT EPA) under the *Environment Protection Act 2019*. Accordingly, an applicant should demonstrate that it has considered this requirement by completing the pre-referral screening and submitting pre-referral checklist when lodging the application (see section 7.2).

While it is the responsibility of an applicant to refer a proposal to the NT EPA, the delegate or department may refer a proposal to the NT EPA where an applicant has not referred the proposal, if it is considered that the proposal should have been referred.

For further information on the NT EPA referrals go to www.ntepa.nt.gov.au or call 08 8924 4218.

7.2. Lodging an application

Applications must be lodged in the approved form and include the following:

- A completed application form
- A land type map and land capability assessment
- Spatial data of the proposed clearing extent and land types (shapefile or KMLs)
- A response from the Flora and Fauna Division, DEPWS
- A response from Plant Industries, DITT
- A response from the Heritage Branch, DTFHC
- An Abstract of Records or Authority Certificate from the Aboriginal Areas Protection Authority
- A completed NT EPA pre-referral checklist following consideration of whether the proposal would require referral to the NT EPA (see section 7.1.5).

7.3. Acceptance of the application

When an application is lodged, an email confirming receipt of the application will be provided by the department. This is not a confirmation that the application is accepted.

Within two business days from receiving the application, the department will assess whether the application is complete and that it contains all of the information necessary for assessment to commence.

- A. If the application is complete, the applicant will be notified that the application has been accepted, and it will progress to advertising. The date of acceptance will be recorded as applications will be assessed in chronological order.
- B. If the application is incomplete, the application will be returned to the applicant and no further action will be taken by the department to process the application. The applicant will be advised why the application is being returned and informed about any necessary improvements to the application for it to meet the acceptance requirements. The applicant may resubmit the application with the additional requirements and this will be treated as a new application.

8. Public Exhibition

All accepted applications will be publically exhibited for a two week period during which time the public and service authorities will have an opportunity to provide comment on the application. The processing timeframe commences from the first day of advertising.

The delegate has discretion to consider comments received after the comment period has closed.

9. Assessment of the application

The department will undertake a desktop assessment of the application to ensure it meets the requirements of the PLC Guidelines, specifically the:

- *Rules for applications (see section 6.2)*
- *Matters to be taken into account by the Board; and*
- *Schedule 1.*

The department will prepare a Technical Assessment Table identifying where the application satisfies or does not satisfy the criteria in Schedule 1. Applicants will be notified if their application doesn't meet Schedule 1 or the rules outlined in section 6.2 and will be given the option to amend their application to continue through the Simplified process or the application can revert to the standard process, with a six month timeframe. The applicant will have ten business days in which to respond.

Any public comments received on the application during the exhibition period will be provided to the applicant for procedural fairness. The applicant will have ten business days in which to respond by either amending the application or providing a supplementary statement in response to the public submission. All public comments received and any response from the applicant will be provided to the delegate.

The assessment of the application will be placed on hold until the applicant has replied, if the applicant requires a longer timeframe to respond.

The department will also consider potential cumulative impacts that may result from the proposal and any other PLC permits issued for the property. If the department considers that the potential for cumulative impact is significant, it may refer the proposal to the NT EPA.

9.1. Timeframes for decisions

The delegate aims to make a decision within 30 business days (excluding public holidays) from the date the application was advertised. While this timeframe may not be met during times of increased demand, these applications will be prioritised over standard applications.

10. Permit Terms and Conditions

Upon making a determination, the delegate will issue a notice to the applicant outlining the reasons for the decision. If approved, the applicant will receive a Notice of Consent, permit, endorsed drawings and a permitted clearing shapefile. If refused, the applicant will receive a Notice of Refusal.

Permits granted through the Simplified PLC process, under section 38(1)(h) of the Act, will have a term of ten years from the date of issue. Permits will include conditions to enable effective management, auditing and reporting of the permitted clearing area.

The Notice of Consent will be provided to the applicant and the permit will be published on the NT Government website (<https://nt.gov.au/property/land-clearing/pastoral-land/pastoral-land-clearing-applications-and-permits/>). The geographic extent of the permitted clearing area will be viewable on the NR Maps website (<https://nrmaps.nt.gov.au>).

Information on the period of a permit, how to vary a permit, including an extension to the term of a permit is available in the PLC Guidelines.

11. Rights of Appeal

Pursuant to section 119 of the Act, that a right of appeal to the Northern Territory Civil and Administrative Tribunal (the Tribunal) exists under Part 9 of the Act. An appeal under section 119 against a decision of the Board, must be made within 28 days of the service of the Notice of Consent. There is no right of appeal by a third party subject to section 119 of the Act.

Information regarding the Notice of Appeal form and fees payable is available at www.ntcat.nt.gov.au.

12. Audit and Compliance

To ensure the Simplified PLC process is effective and doesn't compromise environmental values, DEPWS will undertake an audit of permits issued. The audit will be conducted through on-ground site inspections and satellite remote sensing.

If clearing has occurred outside a permitted clearing extent the Board may revoke the permit and require the lessee to prepare a Rehabilitation Plan. Further penalties may apply if the Rehabilitation Plan is not implemented to the satisfaction of the Board.

13. Related Documents and Websites

Pastoral Land Act 1992

Pastoral Land Regulations 1992

Northern Territory Pastoral Land Clearing Guidelines

Northern Territory Planning Scheme Land Clearing Guidelines

Pastoral land clearing applications and permits

14. Appendix 1 – Simplified PLC Application Flowchart

Simplified Pastoral Land Clearing Application process – *Pastoral Land Act 1992*

