



## COMMERCIAL USE OF NATIVE FLORA & TIMBER

The Biodiversity Conservation Regulations 2018 come into effect on 1 January 2019. This fact sheet provides information on the regulatory arrangements for the commercial use of native flora and timber, but not sandalwood.

### Key points

- New licensing arrangements apply to taking, supplying, processing and dealing native flora (including flowers, seeds, whole plants, timber and firewood).
- Holders of existing licences relevant to these activities will continue to be authorised under the new Regulations until the existing licence expires.
- When an existing licence expires, a new application can be made online at [www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits](http://www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits) or by contacting DBCA on [wildlifelicensing@dbca.wa.gov.au](mailto:wildlifelicensing@dbca.wa.gov.au)
- Taking flora (including flowers, seeds, whole plants, timber and firewood) from Crown land is not permitted unless done under a lawful authority. Taking flora for commercial uses from Crown land may be authorised under a *Flora taking (commercial purposes) Crown land licence*. Flora otherwise lawfully taken from Crown land may be supplied for commercial use under a *Crown land supplier's licence*. Flora may also be taken from Crown land for a commercial purpose under a *Bioprospecting licence*.
- A *Private land supplier's licence* is required where flora (including native timber) is taken from private land and is to be sold either directly to the public or to a flora wholesaler or timber mill (for the native timber and firewood industry).
- People will only be able to sell flora taken from private property under a *Private land supplier's licence* if the flora has been lawfully taken and the owner or occupier has given their permission.
- A licence is not required to take flora from the owner's property for personal use, or to give this flora including firewood away (e.g. to family or friends who do not intend to sell it).
- The taking of flora may also be authorised under a *Flora taking (other purposes) Crown land licence* or *Flora taking (biological assessment) licence*, however, this flora may not be sold or used for a commercial purpose.
- The Biodiversity Conservation Regulations can be accessed via [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au).

## Background Information

All native plants and animals are protected in Western Australia under the *Biodiversity Conservation Act 2016* (BC Act). The removal of native vegetation (or 'flora') is regulated under the *Environmental Protection Act 1986* (EP Act), the *Conservation and Land Management Act 1984* (CALM Act), the *Forest Products Act 2000*, and the BC Act.

On State forests and timber reserves (categories of Crown land), the commercial harvest and sale of timber is managed by the Forest Products Commission, which award contracts to harvest and supply through competitive tender processes. The type, quantities and location of wood made available are regulated by DBCA.

Where the Forest Products Commission does not regulate the supply of timber from areas of Crown land, DBCA may regulate the supply through the CALM Act or BC Act.

DBCA regulates the harvesting and supply of other flora (flowers, foliage, seeds, whole plants) from Crown land. A management plan covering the harvest of this other flora is prepared by DBCA and approved by the Australian Government to authorise flora exports under the *Environment Protection and Biodiversity Conservation Act 1999*.

On private property, the EP Act and its associated regulations provide restrictions and exemptions for clearing native vegetation, while the BC Act and its associated regulations provide for licences to be issued where vegetation that has been taken is to be sold.

## Transitional Licensing Arrangements

From 1 January 2019, new licensing arrangements for the taking, supplying, processing and dealing of flora (including flowers, seeds, whole plants, native timber and firewood) apply.

Holders of existing licences relevant to these activities will continue to be authorised under the new regulations without needing to apply for a new licence. When the existing licence expires, a new application will be required.

Online applications for licences will be available from DBCA's website [www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits](http://www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits) from early 2019 or by contacting DBCA Wildlife Licensing on [wildlifelicencing@dbca.wa.gov.au](mailto:wildlifelicencing@dbca.wa.gov.au).

Taking, supplying, processing and dealing flora (including flowers, seeds, whole plants, native timber and firewood) is principally covered in Regulations 60-66 as summarised in the table below.

<b>Previous licence under the <i>Wildlife Conservation Act</i></b>	<b>New licence under Biodiversity Conservation Regulations 2018</b>
Licence to take protected flora on Crown land for commercial purposes (other than sandalwood)	Flora taking (commercial purposes) Crown land licence
No equivalent	Crown land supplier's licence
Commercial producer's licence or nurseryman's licence (other than sandalwood)	Private land supplier's licence
No equivalent	Flora processing licence
No equivalent	Flora dealing licence

The commercial use of flora through bioprospecting activities is a specialised area and is covered in Regulation 72. A *Bioprospecting licence* may be applied for this activity.

### **When is a licence required?**

Taking flora (including flowers, seeds, whole plants, timber and firewood) from Crown land is not permitted unless done under a lawful authority. Taking for commercial uses may be authorised under a *Flora taking (commercial purposes) Crown land licence* which also authorises the supply of the flora taken. Flora otherwise lawfully taken (eg lawfully under the EP Act) may be supplied for commercial use under a *Crown land supplier's licence*.

The taking of flora from Crown land may also be authorised under a *Flora taking (other purposes) Crown land licence* or *Flora taking (biological assessment) licence*, however, flora taken under these licences may not be sold or used for a commercial purpose.


The permission of the owner or occupier is required to take flora on that land.

**A licence is not required to take flora from the owner's property for personal use, or to give this flora including firewood away (e.g. to family or friends who do not intend to sell it).**

**The regulations do not apply to plantation-grown wood of non-native species such as pine and bluegum.**

**If the flora is being supplied to a not-for-profit organisation or by a not-for-profit organisation, then a licence is not required (e.g. flowers or firewood for a raffle or other fund-raising activity).**

A *Private land supplier's licence* is required where flora has been lawfully taken (including under provisions of the EP Act) from private land and is to be sold. This



includes where native timber or firewood is to be sold either directly to the public or to a wholesaler or timber mill for the native timber and firewood industry.

The Environmental Protection Regulations 1987 contain specific clearing exemptions (e.g. for maintaining fences or tracks or if the flora is lawfully taken under a *Private land supplier's licence*). If an exemption is not applicable, the EP Act provides for the issue of a clearing permit.

To ensure the sustainability of timber harvesting, when applying for a *Private land supplier's licence* for the sale of firewood or timber, in addition to providing the private property owner's consent, the applicant will need to demonstrate that the firewood or timber they intend to sell has been taken in accordance with either a clearing exemption or a clearing permit.

It is a requirement of the regulations that a person intending to supply flora in the future continues to hold either a valid Crown land or private land supplier's licence until the flora is supplied to another person. The holder of the licence must also provide a copy of their licence or their licence number to the purchaser or include it on any packaging.

### **Is a licence required for cultivated flora or cultivars of flora?**

It is necessary to licence cultivated flora in the same manner as wild-sourced flora for industry compliance purposes. Flora that is cultivated is not easily distinguished from wild-sourced stock. See note below on cultivars.

Cultivated flora is defined in the BC Act as flora that has been intentionally sown, planted or propagated, unless it has been sown, planted or propagated under a requirement of the BC Act or another law.

Regulation 4 prescribes classes of flora that are excluded from the definition of cultivated flora (i.e. they are not cultivated flora) including:

- sandalwood that is sown or regenerated in connection with sandalwood being lawfully taken (whether at the same place or at another place);
- flora cultivated or translocated under an approval under Part 7;
- flora that is established for the purposes of meeting a requirement under this Act, the EP Act, *Mining Act 1978*, *Planning and Development Act 2005* or any other written law.

Flora cultivars are a type (subset) of cultivated flora. Flora cultivars are native species that have been bred, selected for and improved over many generations to produce a variety or 'cultivar' that may have particular traits, such as larger flowers or different growing habits.

Cultivars are generally distinguishable from native flora by their appearance as this is usually the objective of creating the cultivar. Examples include forms of Geraldton wax (*Chamelaucium uncinatum*) which have been selected over many generations and grown under trade names such as 'purple pride', and 'western' bluegum (*Eucalyptus globulus*) which has been bred for its timber qualities.

A person will be exempt from needing a *Private land supplier's licence* or *Crown land supplier's licence* to authorise supply of flora cultivars.

## What other permission is needed to take flora?

Although owners or occupiers can take flora from their own land, the permission of the owner or occupier is required to take flora from someone else's private land, and from Crown land. This permission must be provided by an authorisation that is:

- a) in writing; and
- b) identifies the relevant land, and the period during which access to the relevant land is authorised; and
- c) has been signed and dated by the owner or occupier of the land providing the authorisation.

## What requirements apply to dealers?

People who are buying and selling (dealing) flora are exempt from needing a *Flora dealing licence* as a result of an order made under the BC Act. The flora being bought and sold must have been acquired from a person with a supplier's licence or otherwise lawfully obtained. The exemption requires the dealer to maintain records of the purchase and sale of the flora. These records are to be retained for two years and must be provided to a wildlife officer on request.

The exemption also means a *Flora dealing licence* is not required for flora that is being supplied as a potted plant or directly retailed to the public. Records do not need to be kept of these transactions.

## What requirements apply to processors?

Anyone (other than a saw mill receiving forest products taken under contract as per Part 8 of the *Forest Products Act 2000*) processing native timber into carved wood, craft wood, wood chips, wood dust, oil, log timber and sawn timber will require a *Flora processing licence*.

Prescribed methods include carving, drilling, shaving, sanding, cutting, grinding, turning, chipping, crushing, sawing, extracting or any separation method. These 'things or substances of a prescribed kind' and 'prescribed methods' are outlined in Regulation 5.

## Licence Fees

The following table sets out the application and licence fees applicable to flora licences.

Licence type	New application and licence fee	Renewal application and licence fee
Flora taking (commercial purposes) Crown land licence	\$145	\$120
Crown land supplier's licence	\$60	\$60
Private land supplier's licence	\$45	\$30
Flora processing licence	\$215	\$180
Flora dealing licence	\$215	\$180

To find out more about the Biodiversity Conservation Regulations 2018 visit:

[www.dpaw.wa.gov.au/plants-and-animals/biodiversity-conservation-act](http://www.dpaw.wa.gov.au/plants-and-animals/biodiversity-conservation-act)

For further information about licensing visit:

[www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits](http://www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits)

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Current as at 20 December 2018

## FURTHER INFORMATION

Contact your local office of the Department of Biodiversity, Conservation and Attractions. See the department's website for the latest information [www.dbca.wa.gov.au](http://www.dbca.wa.gov.au)



Department of Biodiversity,  
Conservation and Attractions