



## ENVIRONMENTAL CONSULTANTS

The Biodiversity Conservation Regulations 2018 come into effect on 1 January 2019.

### Key points

- New licensing arrangements exist for environmental consultants and researchers taking or disturbing flora and fauna for the purpose of undertaking biological assessment, relocating fauna, scientific or other purposes.
- Holders of existing licences relevant to these activities will continue to be authorised under the new Regulations without the need to apply for a new licence 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 [wildlifelicencing@dbca.wa.gov.au](mailto:wildlifelicencing@dbca.wa.gov.au).
- Taking or disturbing native flora and fauna from private land or Crown land is not permitted unless done under a lawful authority, and with the permission of the private land owner or occupier.
- Taking flora (Crown land only) and fauna (any land) for biological assessment, relocation, scientific or other non-commercial purposes may be authorised under a *Flora taking (biological assessment) licence*, *Flora taking (other purposes) Crown land licence*, *Fauna taking (biological assessment) licence*, *Fauna taking (relocation) licence*, or a *Fauna taking (scientific or other purposes) licence*. Flora or fauna taken under these licences cannot be supplied (sold) for any commercial purpose.
- Licences cannot authorise the taking or disturbing of threatened species, or the modification of a threatened ecological community (TEC). Taking or disturbing threatened species requires an authorisation from the Minister for Environment or delegate under section 40 of the *Biodiversity Conservation Act 2016*.
- There are transitional arrangements for approvals for taking or disturbing of threatened flora and threatened fauna.
- An exemption is provided for an activity that modifies a TEC if the activity is: subject to an existing authority in force before 1 January 2019; carried out in accordance with any conditions of the existing authority; and any Environmental Protection Act clearing permit has been obtained.
- 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 Biodiversity Conservation Regulations 2018 provide new licensing arrangements for taking or disturbing native flora and fauna for the purpose of undertaking biological assessment, relocating fauna, scientific or other purposes under the BC Act.

## Transitional Licensing Arrangements

From 1 January 2019, new licensing arrangements apply for the taking or disturbing native flora and fauna for the purpose of undertaking biological assessment, relocating fauna, scientific or other purposes.

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 the Department of Biodiversity, Conservation and Attractions' (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) or by contacting DBCA Wildlife Licensing on [wildlifelicencing@dbca.wa.gov.au](mailto:wildlifelicencing@dbca.wa.gov.au).

Taking or disturbing native flora and fauna for the purpose of undertaking biological assessment, relocating fauna, scientific or other purposes is principally covered in Regulations 25, 27-28, 61 and 62, which is summarised in the table below.

<b>Previous licence under the <i>Wildlife Conservation Act 1950</i></b>	<b>New licence under the <i>Biodiversity Conservation Regulations 2018</i></b>
Taking fauna for scientific purposes	Fauna taking (scientific or other purposes) licence
Taking fauna for scientific purposes	Fauna taking (biological assessment) licence
Taking fauna for educational or public purposes	Fauna taking (relocation) licence
Taking protected flora on Crown land for scientific purposes or any prescribed purpose	Flora taking (other purposes) Crown land licence
Taking protected flora on Crown land for biological survey	Flora taking (biological assessment) licence

There are transitional arrangements in relation to approvals for taking or disturbing of threatened flora and threatened fauna in the BC Act (section 280) and BC Regulations (regulation 175) respectively.

An exemption is provided for an activity that modifies a threatened ecological community if the activity is subject to an existing authority in force before 1 January 2019, the activity is carried out in accordance with any conditions to which the existing



authority is subject, and any Environmental Protection Act clearing permit required in respect of the activity has been obtained.

## **New Arrangements for Flora Licences**

A *Flora taking (biological assessment) licence* authorises the holder to take flora on Crown land for:

- a) inventory work conducted in the provision of environmental consulting services; and
- b) obtaining specimens for identification purposes associated with work authorised in (a).

A *Flora taking (biological assessment) licence* cannot be granted to a person who is seeking to conduct bioprospecting, or sell any flora taken under the licence (i.e. not for commercial purposes).

*Flora taking (biological assessment) licences* cannot authorise the taking or disturbing of threatened species. Taking or disturbing threatened species requires authority from the Minister for Environment or delegate under section 40 of the BC Act.

Flora surveys for environmental impact assessments should be undertaken in accordance with the Environmental Protection Authority's *Technical Guidance: Flora and vegetation surveys for environmental impact assessment*.

Herbarium voucher specimens should be collected in accordance with the guide prepared by the Western Australian Herbarium *How to Collect Herbarium Specimens*.

Flora taken from Crown land for other non-commercial purposes, such as scientific research or education is authorised by a *Flora taking (other purposes) Crown land licence*. No licence is required to take flora from private land – only the permission of the land owner or occupier is required, other than for the taking of threatened species.

Flora licences may be taken out for one or up to three years.


## **New Arrangements for Fauna Licences**

A *Fauna taking (biological assessment) licence* authorises the holder of the licence to take or disturb fauna for:

- a) inventory work conducted in the provision of environmental consulting services; and
- b) obtaining specimens for identification purposes associated with work authorised in (a).

Fauna licences covered in this fact sheet cannot be granted to a person who is seeking to take fauna for supply or bioprospecting activity. Fauna licences also cannot authorise the taking or disturbing of threatened species. This can only be authorised by the Minister for Environment or delegate under section 40 of the BC Act.

A *Fauna taking (biological assessment) licence* can be issued for specific projects or on an annual or three-year basis. They are issued to specific people to undertake



biological assessment (survey) using approved techniques. A licensee may hold multiple project-based licences at any particular time where licensed projects operate concurrently or may hold a time-bound licence and advise the department of the geographic areas in which survey activity is being conducted.

Fauna surveys for environmental impact assessments should also be conducted in accordance with the Environmental Protection Authority's *Technical Guidance: Vertebrate fauna surveys for environmental impact assessment*.

A *Fauna taking (scientific or other purposes) licence* authorises the holder of the licence to take live or dead fauna for education, research, study or conservation (but not for a bioprospecting activity) or a purpose approved by the CEO.

Dead fauna may also be taken under a *Fauna taking (scientific or other purposes)* for the purpose of art or hobby but not for commercial purposes.

### **Fauna Relocation Licences**

A *Fauna taking (relocation) licence* is intended for planned relocations of fauna, such as when the fauna is to be displaced by a development activity. The licence authorises the holder of the licence to:


- a) take or disturb fauna for the purpose specified in the licence;
- b) possess the fauna for a specified period, until the occurrence of a specified event, or on some other basis specified in the licence;
- c) transport and release the fauna as required under the licence.

*Fauna taking (relocation) licences* cannot authorise the taking or disturbing of threatened species. This can only be authorised by the Minister for Environment or delegate under section 40 of the BC Act.

Regulation 50 provides a specific exemption from the requirement for a licence to disturb fauna, including threatened fauna, where the fauna is injured, diseased, exhausted, trapped, stranded or otherwise in need of assistance, care or treatment and the disturbance is reasonably necessary to provide assistance, care or treatment, including to remove the fauna from danger. In such cases, fauna may be captured, moved and immediately released in the immediate vicinity, or as directed by a wildlife officer. An example where this exemption would apply is the relocation of a snake from a residence to nearby bushland. This exemption does not apply in relation to marine fauna, but action may be taken in relation to marine fauna under an authorisation by the CEO or a wildlife officer.

### **Longer Term Fauna Licences**

Applicants for fauna licences can provide Standard Operating Procedures (SOPs) which cover all of the methods that they intend to use for the survey or relocation of fauna during the period of the licence, including for multiple projects. Such licences may be taken out for one or up to three years.



Methodologies described in the licence application will need to address animal welfare issues as well as matters relating to the conservation of the fauna, including appropriate use of animals through best practice survey design.

Guidelines will set out the level of detail that needs to be included in the SOP and the level of survey to which it applies. SOPs on fauna survey activities are available on DBCA's website [www.dpaw.wa.gov.au/plants-and-animals/monitoring/standards-and-protocols](http://www.dpaw.wa.gov.au/plants-and-animals/monitoring/standards-and-protocols).

Once a fauna licence is issued, only those methods specified in the application will be authorised to be used. If a different method is required, the applicant can either submit an amendment (with an appropriately detailed SOP) or apply for a new licence.

Where the proposed method is novel or experimental, a *Fauna taking (scientific or other purposes) licence* will be required. These methods will not be included as an on-going survey or relocation technique until endorsed as such.

CEO licensing guidelines are being prepared to provide more information about applying for these licences and will be available on DBCA's website.

## **Arrangements for Assistants in the Field**

Licences to take fauna or flora for the purpose of undertaking biological assessment, relocating fauna, scientific or other purposes can only be issued to an individual. Licensees may be assisted by other individuals under a single licence if they are acting under the direct supervision in the field of the licence holder.

For example, these licences may be issued to the principal investigator or project leader of an environmental consulting firm (if this person is present in the field on each occasion), to an independent consultant, or to university researchers or students. People operating independently in the field will be required to hold individual licences.

## **Ministerial Authorisations for Taking Threatened Species**

Flora and fauna licences cannot authorise the taking or disturbing of threatened species. Where a licenced activity is likely to result in the taking or disturbance of a threatened species, a Ministerial authorisation under section 40 of the BC Act is required and should be applied for at the time of applying for the licence(s), or subsequently if it becomes known that such an authorisation will be required.

Defences are provided in the Act at sections 151(2) and 174(2) for the accidental taking of threatened fauna or threatened flora, but these defences only apply where the taking occurred in the course of a lawful activity, the sole or dominant purpose of which was not to take threatened fauna or flora and the taking could not reasonably have been avoided.

Information on applying for Ministerial authorisations is 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) or by contacting DBCA Wildlife Licensing on [wildlifelicensing@dbca.wa.gov.au](mailto:wildlifelicensing@dbca.wa.gov.au).

## Obligation to Notify Presence of Threatened Species or Threatened Ecological Community

Sections 43 and 49 of the BC Act compel any person carrying out field work for the purposes of an assessment under Part IV of the *Environmental Protection Act 1986* (EP Act), or complying with an EP Act s.51E(1)(d) application for a clearing permit, to report the presence of a threatened species or a threatened ecological community (TEC) to the CEO (of DBCA).

Defences are provided in sections 43(4) and 49(4) that apply where the person did not know, or could not reasonably have known, that they had found a threatened species or TEC.

Guidelines are being developed to provide further information for people applying for licences and on renewals and returns, including methods of notifying the presence of a threatened species or threatened ecological community.

### Licence fees

The following table sets out the application and licence fees applicable to annual licences that may be issued to environmental consultants.

Licence type	New application and licence fee	Renewal application and licence fee
Flora taking (other purposes) Crown land licence	\$45	\$30
Flora taking (biological assessment) licence	\$150	\$100
Fauna taking (scientific or other purposes) licence	\$175	\$80
Fauna taking (biological assessment) licence	\$200	\$110
Fauna taking (relocation) licence	\$175	\$80

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)

### **DBCA headquarters**

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### **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