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# Agricultural actions exempt from approval under national environmental law



This guide aims to help you determine if an agricultural action is exempt from approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPBC Act is Australia's key national environmental legislation.

## When does the EPBC Act apply to agricultural actions?

The EPBC Act aims to protect Matters of National Environmental Significance (a nationally protected matter) and, in doing so, considers ways to balance environmental considerations with economic and social ones.

The EPBC Act only applies to agricultural actions when they are likely to have a significant impact on a Matter of National Environmental Significance. Actions that are likely to significantly impact a protected matter need referral for assessment under the EPBC Act.

Nationally protected matters include plants and animals and ecological communities that are listed as threatened under the EPBC Act, as well as Ramsar wetlands, migratory species and the Great Barrier Reef.

## Are any agricultural actions exempt from the EPBC Act approval process?

There are two circumstances in which farmers and land managers don't need approval for agricultural actions that are likely to significantly impact protected matters. They are when the action:

1. has prior environmental authorisation. This means your action was authorised by a specific environmental authorisation immediately before the introduction of the EPBC Act on 16 July 2000, and this authorisation is still in force; or
2. is a lawful continuation. This means your current action is a lawful continuation of a land use that was occurring immediately before the introduction of the EPBC Act on 16 July 2000.

## Prior environmental authorisation

Your action has a prior environmental authorisation when:

- there is an environmental authorisation for the action prior to July 2000 that specifically names the action; and

- the authorisation was issued under a law of the Commonwealth or a state or territory that has either or both of the following objects:
  - » to protect the environment,
  - » to promote the conservation and ecologically sustainable use of natural resources; and
- immediately prior to July 2000 no additional authorisation was necessary to lawfully take the action; and
- the authorisation is still in force at the time of taking the action; and
- if the authorisation has since been renewed, the renewal was for the same action/land use that was originally authorised, and no further environmental assessment was needed.

## The land use has been continuous

You do not need to refer your agricultural action if:

- the action is associated with a lawful continuation of a land use that was occurring before the introduction of the EPBC Act in July 2000; and
- the land use has been occurring without interruption, or if the use is cyclical, if there has not been an interruption in cycles; and
- there will not be an enlargement, expansion or intensification of the land use; and
- there will not be a substantial increase in the impact of the use on the land because of:
  - » a change in where the use of the land is occurring; or
  - » a change in how the land is being used.

## What kind of land use may be continuous?

Here are some examples of continuous land use and their associated actions.

Land use	Associated action
Grazing	<ul style="list-style-type: none"> <li>• Changing the stocking rate within the historic range of stocking numbers</li> <li>• Interchanging grazing strategies (for example, set stocking and rotational grazing) without enlarging or intensifying the use of the land for grazing</li> <li>• Continuation of native regrowth clearance at a regular, uninterrupted interval (for example, a ten-year cycle)</li> </ul>
Grazing modified pasture	<ul style="list-style-type: none"> <li>• Improving native pasture by sowing legumes in a native pasture at a regular interval, such as on a three-year cycle</li> </ul>
Cropping or horticulture	<ul style="list-style-type: none"> <li>• Maintaining drainage channels through routine clearing of the channels</li> <li>• Interchanging cropping activities (for example, irrigated cereals and irrigated pulses) without substantially increasing their impact</li> <li>• Increasing soil fertility by applying fertiliser at a regular interval without intensifying the use of the land</li> </ul>
Grazing, cropping or horticulture	<ul style="list-style-type: none"> <li>• Continuation of weed control methods without increasing the area of land under cultivation or intensifying the impact of the control method</li> </ul>

This guidance is of a general nature. You should seek advice if you are unsure if your action is exempt from the EPBC Act approval process.



## What if my action has no prior authorisation, or has not been continuous?

If your proposed action does not fall under the above exemptions, you will need to undertake a self-assessment process to decide if you need to refer your action to the Department of Agriculture, Water and the Environment. The self-assessment process is outlined in the [Significant Impact Guidelines 1.1](#).

If you conclude that your action is likely to have a significant impact on a nationally protected matter, you will need to refer your action to us via the [online referral form](#).

## Where can I get help?

For help, call **1800 803 772** or email [epbc.referrals@environment.gov.au](mailto:epbc.referrals@environment.gov.au).

We will assist with advice about nationally protected matters, significant impacts and, if required, how to seek approval under national environmental law. We are keen to work with and support farmers.

You may also wish to talk to people in your local community about your plans.

Good sources of advice include Natural Resource Management and Catchment Management officers, NSW Local Land Services officers, local council environment officers and qualified experts such as ecologists.

State land management officers can assist with advice about mapping, regional ecosystems, protected matters, native vegetation clearance and how other laws apply to your property.

