



Department of
Environment

**A GUIDE TO
THE EXEMPTIONS AND
REGULATIONS
for
CLEARING NATIVE
VEGETATION**

*under the
Environmental Protection
Act 1986*

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In 2004, changes to the *Environmental Protection Act 1986* (EP Act) introduced a new process for clearing native vegetation in Western Australia.

If you want to clear native vegetation, you may need to apply for either a permit from the Department of Environment (DoE) OR qualify to clear under an exemption.

An exemption is a kind of clearing activity that does not require a permit. There are two types of exemptions.

The first type can be found in Schedule 6 of the EP Act. These exemptions are often referred to as the Schedule 6 exemptions.

The second type is found in a set of regulations known as the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. These are often referred to as **exemptions under regulations**.

Exemptions under regulations do not apply in **environmentally sensitive areas**. These areas are defined in the *Western Australian Government Gazette*, Friday 8 April 2005, No 55. For a copy of the Gazette you can contact the State Law Publisher on (08) 9321 7688.

To find out the location of environmentally sensitive areas you can visit the DoE web site at <http://www.nvp.environment.wa.gov.au>.

The regulations also address a number of other matters related to clearing native vegetation such as:

- When you can and can't clear native vegetation that has been planted by a person or organisation for a specific purpose. This is referred to in this Guide as **intentionally planted vegetation** and is defined in regulation 4.
- Fees for sending in an application to clear native vegetation.
- The information that the Department of Environment must keep about applications to clear.
- The information that the Department of Environment must make available to the community about applications to clear.

This guide explains what the exemptions are, who they apply to and what is considered to be intentionally planted vegetation.

For information on fees or information about applications that is recorded and published, you should obtain an official version of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. To obtain a copy, you can visit www.slp.wa.gov.au or contact the State Law Publisher on (08) 9321 7688.

Please note that while you might be able to clear with an exemption under the Environmental Protection Act 1986, there might be other legislation you need to comply with.

HOW TO USE THIS GUIDE

The first section of this guide explains how the Schedule 6 exemptions work. The second section of the guide explains how the exemptions under regulations work.

Where you find words in the table that are highlighted in bold, the meaning of these words is explained in the *Glossary* on page 27.

If you are looking for a particular clearing activity or topic that might be exempt, you can refer to the *Index* on pages one and two, which lists items by their topic (eg. clearing for roads, clearing for fence lines etc.).

Further Information

If you have any questions about this guide or are not sure if you can clear under an exemption, you can contact your local Department of Environment office (see contact details on page 30) or phone the freecall hotline on 1800 061 025.

More general information about clearing native vegetation can be found at <http://nvp.environment.wa.gov.au>.

Please note.....

The information provided in this document describes some of the new laws for clearing native vegetation introduced under the Environmental Protection Act 1986. Persons who intend to undertake activities that may involve clearing are advised to consult the actual legislation and seek advice, including legal advice, where necessary. While the Department has endeavoured to ensure the accuracy of the contents of this document, it accepts no responsibility for any inaccuracies and persons relying on this document do so at their own risk.

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Section 1- Schedule 6 Exemptions

This table lists the exemptions that can be found in Schedule 6 of the *Environmental Protection Act 1986*. These exemptions mainly refer to clearing that is required under other laws.

- The first column refers to the clause in the in the Act.
- The second column shows the legal wording of the exemption.
- The third column uses simpler language to explain how the exemption works.

Clause No.	Wording of Exemption	Comment/Explanation
1- Clearing that is required under other laws	Clearing that is done in order to give effect to a requirement to clear under a written law.	<p>This exemption allows clearing that is a duty or obligation under another law. This exemption does not allow clearing that is merely permitted or approved but refers to clearing that is actually required by a written law.</p> <p>Example 1</p> <p>Section 54 of the <i>Energy Operators (Powers) Act 1979</i></p> <p><i>It is the duty of the occupier of any land over which vegetation is growing to clear as much of the vegetation as is necessary to prevent it interfering or obstructing the construction, maintenance or safe use of any supply system. Where this is not carried out, the energy operator may enter upon the land without notice to clear the vegetation.</i></p> <p>Example 2</p> <p>Section 33 of the <i>Bush Fires Act 1954</i></p> <p><i>A local government at any time, may require an owner or occupier of land in its boundaries to clear fire-breaks in such a manner... as the local government may determine and to maintain the fire-breaks clear of inflammable matter.</i></p> <p>Example 3</p> <p><i>Land Administration Act 1997</i></p> <p>Clearing to maintain or reconstruct existing fences (and other pastoral improvements) is a requirement of section 107(3) and is therefore exempt.</p>

		<p>Other clearing to “manage and work the land under the lease to its best advantage as a pastoral property” as required under section 108(1) would similarly be exempt.</p> <p>Under section 108(1), the management and work would generally need to be completed to the satisfaction of the Pastoral Lands Board and so the Board’s policies and directives may be decisive in determining what constitutes exempt activity.</p> <p>In addition, lessees are required under section 108(2) to adopt best pastoral and environmental management practices and are required under section 108(4) to maintain indigenous pasture and vegetation to the satisfaction of the Board.</p> <p>The Pastoral Lands Board is the judge of satisfactory compliance with section 108. This is subject to a requirement to adopt best pastoral and environmental management practices and to the maintenance of indigenous pasture and vegetation. For more information, you should contact the Pastoral Lands Board.</p> <p>Under section 107 (1) and (2), where the Pastoral Lands Board believes that an improvement is necessary, it may require a pastoral lessee to prepare a development plan detailing the achievement of the improvement to a specified timetable. Compliance with the development plan is a requirement and is therefore also exempt.</p>
<p>2-Formal assessment by the Environmental Protection Authority</p>	<p>Clearing that is done —</p> <p>(a) in the implementation of a proposal in accordance with an implementation agreement or decision;</p> <p>(b) in the case of a proposal that —</p> <p>(i) was made under an assessed scheme; and</p> <p>(ii) because of section 481(2), was not referred to the Authority, in the implementation of the proposal in accordance with a subdivision approval, a development approval or a planning approval given by the responsible authority;</p> <p>(c) in accordance with —</p> <p>(i) a prescribed standard;</p> <p>(ii) a works approval;</p> <p>(iii) a licence;</p> <p>(iv) a requirement contained in a closure notice, an</p>	<p>In this Guide, the Environmental Protection Authority can be referred to as the EPA or the “Authority”.</p> <p>(a) This exemption applies to clearing formally assessed as part of a proposal under section 38 of Part IV of the <i>Environmental Protection Act 1986</i>. The clearing must be in accordance with the implementation agreement or decision.</p> <p>This exemption does not apply to proposals where the EPA has decided not to formally assess it, whether or not the EPA provides advice to the proponent. It also does not apply to expansions or works not covered by the conditions of the original proposal.</p> <p>(b) This exemption applies to assessed schemes implemented in accordance with a subdivision approval, development approval or planning approval where:</p> <ul style="list-style-type: none"> • clearing of native vegetation was assessed; and • the implementation of the proposal would have a significant effect on the environment.

	<p>environmental protection notice or a prevention notice;</p> <p>(v) an approved policy;</p> <p>(vi) a declaration under section 6;</p> <p>(vii) an exemption under section 75; or</p> <p>(viii) a licence, permit, approval or exemption granted, issued or given under the regulations;</p> <p>or</p> <p>(d) in the exercise of any power conferred under this Act.</p>	<p>If a decision-making authority is uncertain whether clearing of native vegetation has been considered as part of an assessed scheme, the EPA should be contacted for advice.</p> <p>(c) This exemption allows clearing in accordance with the items listed.</p> <p>"In accordance with" means as dictated by the works approval, licence or other instrument.</p> <p>Currently, clearing native vegetation is not usually assessed as part of an application for a works approval or licence (pollution licence). This means a clearing permit is still required unless a works approval or licence is issued with specific approvals relating to clearing native vegetation.</p> <p>Once these processes have been developed, this exemption may permit clearing necessary to carry out the works of the approval or licence area and the clearing would have to be carried out subject to any conditions contained in the works approval or licence.</p> <p>(d) This exemption allows clearing that is done in the exercise of any power given under the <i>Environmental Protection Act 1986</i>.</p>
<p>3- Clearing carried out by the Department of Conservation and Land Management</p>	<p>Clearing by the Department, within the meaning of the <i>Conservation and Land Management Act 1984</i>, in the performance of its function under section 33(1)(a) of that Act of managing land, but, in the case of land referred to in section 33(1)(a)(i), only if the management is carried out in accordance with section 33(3).</p>	<p>This exemption refers to clearing done by the Department of Conservation and Land Management as part of its role as the manager of lands.</p> <p>Lands include State forest; timber reserves; national parks; conservation parks; nature reserves; marine nature reserves; marine parks; marine management areas; and other lands and waters vested or managed by the Conservation Commission or the Marine Authority.</p> <p>The clearing must:</p> <p>(1) be in accordance with a management plan where there is a management plan;</p> <p>(2) where there is no such plan</p> <p>(i) in the case of nature reserves and marine nature reserves, only operations necessary for the preservation or protection of persons, property, land, waters, flora or fauna, or for the preparation of a management plan; or</p> <p>(ii) in the case of national parks, conservation parks, marine parks and marine management areas, either necessary operations as for (i) or compatible operations approved by the Minister as being compatible with the purposes of</p>

		<p>the park or management area;</p> <p>(iii) in the case of other land to achieve the purpose for which the land was vested or managed (as described in section 56 of the <i>Conservation and Land Management Act 1984</i>).</p>
4- Clearing under the <i>Sandalwood Act 1929</i>	Clearing authorised under a licence — (a) referred to in paragraph (a); or (b) granted under paragraph (b), of section 3(1) of the <i>Sandalwood Act 1929</i> .	This exemption allows a person licensed under the <i>Sandalwood Act 1929</i> to take sandalwood in accordance with the terms and conditions of the licence.
5- Taking flora under the <i>Wildlife Conservation Act 1950</i>	Clearing consisting of the taking of flora — (a) as authorised under a licence under section 23C of the <i>Wildlife Conservation Act 1950</i> ; or (b) as consented to under section 23F of the <i>Wildlife Conservation Act 1950</i> by the Minister administering that Act.	<p>This exemption allows a person holding a Commercial Purposes licence under section 23C of the <i>Wildlife Conservation Act 1950</i> to take flora in accordance with the terms and conditions of the licence.</p> <p>This exemption also allows a person who has obtained the consent of the Minister to take declared rare flora.</p>
6- Taking flora under the <i>Wildlife Conservation Act 1950</i>	Clearing consisting of the taking of flora by a person authorised — (a) by subsection (1)(a); or (b) under subsection (1)(b), of section 23D of the <i>Wildlife Conservation Act 1950</i> for the purposes of sale under a licence issued under that section.	<p>This exemption allows a person holding a Commercial Producer's licence under section 23D of the <i>Wildlife Conservation Act 1950</i> to take flora for sale in accordance with the terms and conditions of the licence.</p> <p>Note that under an amendment to section 23D of the <i>Wildlife Conservation Act 1950</i>, the Minister must consider the clearing principles set out in Schedule 5 of the <i>Environmental Protection Act</i>. The Minister shall not issue a licence under the <i>Wildlife Conservation Act</i> if the taking of flora would be seriously at variance with those principles.</p>
7- Clearing by the Forest Products Commission	Clearing under the <i>Forest Products Act 2000</i> , of vegetation maintained, or established and maintained, under section 10(1)(g) of that Act.	<p>This exemption allows clearing by the Forest Products Commission of forest products in plantations; plant nurseries; or seed or propagation orchards which are maintained, or established and maintained, by the Forest Products Commission.</p> <p>Forest products means trees or parts of trees; timber, sawdust or chips; charcoal, gum, kino, resin or sap; and firewood, located on public land or sharefarmed land.</p>
8- Specific clearing under the <i>Forest Products Act 2000</i>	Clearing under a production contract or road contract entered into and having effect under the <i>Forest Products Act 2000</i> .	<p>This exemption allows clearing of forest products by the Forest Products Commission or its contractors in accordance with a production contract provided that:</p> <ul style="list-style-type: none"> the quantities and kinds of forest products and the location of the forest products to

		<p>be managed, harvested, or sold are in accordance the relevant management plan.</p> <p>A production contract has no effect after the relevant management plan has expired.</p> <p>This exemption allows for clearing in accordance with a road contract for the construction or maintenance of roads for the purposes of managing or harvesting forest products.</p> <p>Production and road contracts may only be made in relation to land managed by the Department of Conservation and Land Management if the management plan allows for the management or harvesting of forest products.</p>
9- Clearing under the <i>Town Planning and Development Act 1928</i>	<p>Clearing in accordance with a subdivision approval given by the responsible authority under the <i>Town Planning and Development Act 1928</i>, including —</p> <p>(a) clearing for the purposes of any development that is deemed by section 20D of that Act to have been approved by the responsible authority; and</p> <p>(b) clearing in any building envelope described in the approved plan or diagram.</p>	<p>This exemption allows clearing in accordance with a subdivision approved by the responsible authority under the <i>Town Planning and Development Act 1928</i>.</p> <p>This includes clearing native vegetation for the purposes of:</p> <ul style="list-style-type: none"> • constructing roads to provide access to or within the subdivision; • providing water services to the satisfaction of the Water Corporation; • filling or draining the land in accordance with the specifications of the approval and; • clearing within any building envelope described in the approved plan or diagram. <p>Most subdivision approvals do not explicitly authorise the clearing of native vegetation other than for the purposes outlined above.</p>
10- Clearing under the <i>Bush Fires Act 1954</i>	<p>Clearing that is done —</p> <p>(a) as permitted under section 17(5);</p> <p>(b) in accordance with a permit obtained under section 18;</p> <p>(c) in accordance with permission granted under section 21(2);</p> <p>(d) under section 22(2), 23, 26A, 39(1)(d) or 44(1)(c); or</p> <p>(e) as authorised by a proclamation under section 26, of the <i>Bush Fires Act 1954</i>.</p>	<p>This exemption allows clearing under the <i>Bush Fires Act 1954</i> for:</p> <ul style="list-style-type: none"> • burning during a restricted time if a permit is obtained from a <i>bush fire control officer</i>; • burning if the Minister for Fire and Emergency Services or a person acting on the Minister's authority grants permission during a declared bush fire emergency period; • burning during prohibited times if a burning permit is obtained from a bush fire control officer to burn bush on land to protect a dwelling, building, haystack or crop, or to control certain weeds; or • clearing by a bush fire control officer to construct fire breaks or clear land to control or prevent the spreading of a fire.

11- Clearing under the <i>Fire Brigades Act 1942</i>	Clearing that is done under section 34(a), (c) or (h) of the <i>Fire Brigades Act 1942</i> .	Under the <i>Fire Brigades Act 1942</i> the Director of Operations or the officer or member of the Brigade in charge at a fire may take and direct any clearing which appears necessary to protect life and property, or to control and extinguish the fire.
12- Clearing for fire prevention or control on Crown land	Clearing that is done for fire prevention or control purposes or other fire management works on Crown land, within the meaning of the <i>Land Administration Act 1997</i> , by the Fire and Emergency Services Authority of Western Australia established under the <i>Fire and Emergency Services Authority of Western Australia Act 1998</i> .	This exemption allows clearing by the Fire and Emergency Services Authority for fire prevention or control purposes or for other fire management works on Crown land .
13- Clearing under the <i>Land Administration Act 1997</i>	Clearing caused by the grazing of stock on land under a pastoral lease within the meaning of the <i>Land Administration Act 1997</i> as long as that grazing is not in breach of — (a) that Act; (b) the pastoral lease; or (c) any relevant condition set or determination made by the Pastoral Board under Part 7 of that Act.	This exemption allows a pastoral lessee to graze stock on a pastoral lease in accordance with the <i>Land Administration Act 1997</i> , the terms and conditions of the pastoral lease and any relevant condition or determination by the Pastoral Lands Board.
14- Clearing under the <i>Fish Resources Management Act 1994</i>	Clearing of aquatic vegetation that occurs under the authority of a licence or permit within the meaning of the <i>Fish Resources Management Act 1994</i> .	This exemption allows the clearing of aquatic vegetation that is authorised by a licence or permit issued under the <i>Fish Resources Management Act 1994</i> . For example, this may include the incidental clearing caused by the ordinary and otherwise lawful use of rock lobster pots in accordance with a licence to take rock lobster.

<p>s.119 of the <i>Environmental Protection Amendment Act 2003</i></p> <p>Notices of Intent to Clear under the <i>Soil and Land Conservation Regulations 1992</i></p>	<p>In this section –</p> <p>“Authority” has the same meaning as it has in the EP Act;</p> <p>“commencement day” means the day on which section 110 comes into operation;</p> <p>“EP Act” means the <i>Environmental Protection Act 1986</i> as amended by this Act;</p> <p>“regulation 4 notice” means a notice of intention under regulation 4 of the <i>Soil and Land Conservation Regulations 1992</i>.</p> <p>(2) This subsection applies to clearing if –</p> <ul style="list-style-type: none"> (a) a regulation 4 notice relating to the clearing was given not less than 90 days before the commencement day; (b) the clearing was or is commenced not more than 2 years after the giving of the notice and is completed not more than 2 years after the commencement day; (c) the clearing was not referred to the Authority as a proposal under Part IV of the EP Act, or was so referred and not accepted by the Authority; and (d) a soil conservation notice, within the meaning of section 31 of the <i>Soil and Land Conservation Act 1945</i>, has not been served in respect of the clearing. <p>(3) For the purposes of sections 51C and 74B of the EP Act, clearing to which subsection (2) applies is to be regarded as being cleared of a kind set out in Schedule 6 to the EP Act.</p>	<p>This exemption allows clearing where a notice of intent to clear under regulation 4 of the <i>Soil and Land Conservation Regulations 1992</i> was given at least 90 days before 8 July 2004.</p> <p>The clearing must have commenced not more than 2 years after the giving of the notice and be completed not more than 2 years after the commencement day (8 July 2004).</p> <p>The exemption does not apply where the clearing was referred to the Environmental Protection Authority or where a soil conservation notice was served in respect of the clearing.</p>
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Section 2- Regulations

The *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* list a range of clearing activities that do not require a permit if carried out outside of an environmentally sensitive area.

Please note that the following explanations are not the official version of the regulations, but a guide that explains to you how the exemptions under regulations work. The explanations do not address regulations seven (fees) and eight (records to be kept by the CEO). For information on these exemptions you should refer to the official version of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

You may wish to have an official copy of the regulations to refer to when reading this document. The official version can be obtained by contacting the State Law Publisher (08) 9321 7688.

Regulations 1, 2 & 3

Regulation 1 states the official name of these regulations, which is the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

Regulation 2 states the day the regulations came into operation. This was 8 July 2004.

Regulation 3 lists some definitions of particular terms used in the regulations. In this guide, these definitions have been included with the exemption they refer to. If you are still unsure about the meaning of a particular term, you can refer to the Glossary on page 26.

Regulation 4 - Intentionally sown, planted or propagated vegetation

Plantations

The clearing laws only apply to “native vegetation”. The definition of “native vegetation” in the EP Act does not include native species in a plantation. A plantation is defined in section 3 as “one or more groups of trees, shrubs or plants intentionally sown, planted or propagated with a view to commercial exploitation”. The selling of flora from such plantations may require a licence under section 23D of the *Wildlife Conservation Act 1950*.

Other Intentionally Planted Vegetation

Under section 51A of the EP Act “native vegetation” does not include vegetation that is intentionally sown, planted or propagated unless:

- the vegetation was sown, planted or propagated as required under the EP Act or another written law; or
- it is declared to be native vegetation under the regulations.

There is some overlap between this exclusion and the exclusion in section 3 of the EP Act relating to plantations. Regulation 4 describes some kinds of intentionally planted indigenous vegetation that are to be considered “native vegetation” and which therefore require a clearing permit or exemption to clear.

Intentionally planted vegetation that requires a permit or exemption to clear

- (a) Vegetation that was planted and funded (wholly or partly):
 - by a person who was not the owner of the land and it was planted for the purpose of biodiversity conservation or land conservation.
- (b) Vegetation that has:
 - a conservation covenant or agreement to reserve under the *Soil and Land Conservation Act 1945*;
 - a covenant to conserve under the *National Trust of Australia (WA) Act 1964*;
 - a restrictive covenant to conserve under the *Transfer of Land Act 1983*;
 - some other form of binding undertaking to establish and/ or maintain the vegetation.

Regulation 5- Prescribed Clearing

This regulation includes a table of 26 exemptions, referred to as “Items”. Each exemption listed in the table only applies if the person specified in the table carries out the clearing.

If you clear using one of the exemptions in the table below, you must make sure you clear in a way that limits damage to nearby vegetation.

One Hectare Limit

A number of items providing exemptions under the regulations only exempt clearing to the extent that the total combined clearing under any of these exemptions does not exceed one hectare in any financial year.

This means that if you clear for one or more of the following purposes, the total area cleared may not add up to more than one hectare in a financial year.

- Clearing to construct a building (Regulation 5, Item 1)
- Clearing to collect firewood (Regulation 5, Item 5)
- Clearing to obtain fencing or farming materials (Regulation 5, Item 6)
- Clearing for woodwork (Regulation 5, Item 7)
- Clearing for fence lines (Regulation 5, Items 10 & 11)
- Clearing for vehicular tracks (Regulation 5, Item 12)
- Clearing for walking tracks (Regulation 5, Item 13)
- Clearing isolated trees (Regulation 5, Item 19)

Clearing under exemptions set out in regulation 5 must fall within the description of exempt clearing set out in the Table to regulation 5. It must also be done with the prior authority of the person to whom the exemption applies and must be done in such a way as to avoid or limit damage to the neighbouring native vegetation.

Environmentally Sensitive Areas

There are a number of areas around Western Australia where the exemptions under regulations **do not apply**. These areas are referred to as environmentally sensitive areas. These locations are generally areas where the vegetation has high conservation value and cannot be cleared.

Section 51B of the EP Act allows the Minister to declare environmentally sensitive areas. Once declared, the exemptions under the regulations do not apply in these areas. This means that if you want to clear native vegetation in an environmentally sensitive area, you may need to apply for a clearing permit.

For locations of environmentally sensitive areas visit <http://nvp.environment.wa.gov.au> or contact your local Department of Environment office.

It is important to note that a location cannot be declared an environmentally sensitive area until:

- the determination of the flora, ecological community, site or area has been made public; or
- the owner, occupier or person responsible for the care and maintenance of the land has been notified of the area.

This is to ensure that people are aware of environmentally sensitive areas and do not clear them without knowing.

Item Number & Topic	Wording of Regulation	Comment/Explanation
<p>Regulation 5, Item 1- Clearing to construct a building</p> <p>Clearing must be done by or with the prior authority of: The owner of the property on which the clearing is to take place.</p>	<p>Clearing of a site for the lawful construction of a building or other structure on a property, being clearing which does not, together with all other limited clearing on the property in the financial year in which the clearing takes place, exceed 1 ha, if –</p> <p>(a) the clearing to the extent necessary; and (b) the vegetation is not riparian vegetation.</p>	<p>Clearing of native vegetation for the construction of a building or other structure is exempt as long as other relevant approvals have been obtained.</p> <p>“Building” means a roofed building or other roofed structure that is permanently fixed to the ground, and includes a transportable building that is:</p> <p>(a) connected to a sewerage system or septic tank; or (b) intended to be used as a permanent building.</p> <p>For example, clearing of a house site is exempt provided that building approval has been obtained from local government.</p> <p>Clearing may also be carried out for the construction of other structures.</p> <p>Clearing must only be to the extent necessary for the building or other structure. For example, this exemption does not allow you to clear a large area to simply install a 2m x 3m garden shed.</p> <p>This exemption does not allow clearing of <i>riparian vegetation</i>.</p> <p>Under this item you will notice that clearing for a building, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year.</p> <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5) • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11) • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19)

		This exemption does not apply in an environmentally sensitive area.
<p>Regulation 5, Item 2- Clearing resulting from accidents or to reduce danger</p> <p>Clearing must be done by or with the prior authority of: The owner of the land on which the clearing is to take place; or A person responsible for the safety or welfare of the persons who are likely to be in danger or for the portion of the environment.</p>	<p>Clearing</p> <p>(a) for the purposes of preventing imminent danger to human life or health or irreversible damage to a significant portion of the environment; or</p> <p>(b) as a result of an accident caused otherwise than by the negligence of the person clearing or the person who authorised the clearing.</p>	<p>The exemption is largely consistent with the section 74 defence to environmental harm in the <i>Environmental Protection Act</i>.</p> <p>The danger or risk to the environment must be “imminent”, rather than just a “possible” or “potential” danger or risk.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 3- Clearing for fire hazard reduction</p> <p>Clearing must be done by or with the authority of: The owner of the land on which the clearing is to take place.</p>	<p>Clearing that is fire hazard reduction burning if the clearing is—</p> <p>(a) to occur outside the prohibited or restricted burning times declared under the <i>Bush Fires Act 1954</i> for the zone in which the clearing is to take place;</p> <p>(b) done in such a way as to minimise long term damage to the environmental values of the vegetation;</p> <p>(c) done before the earlier of –</p> <p>(i) the expiry of 3 years after Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation; or</p> <p>(ii) the issuing of a Code of Practice under section 122A of the Act that substantially covers the matters dealt with by this item.</p>	<p>This exemption allows for hazard reduction burning.</p> <p>Hazard reduction burning means burning or partial burning of vegetation to reduce the risk of injury or damage to persons and property from an uncontrolled fire in the vegetation, outside of the prohibited or restricted periods.</p> <p>The clearing must be done in a way that minimises long term damage to the environmental values of the vegetation. Environmental value is defined in detail in section 3 of the <i>Environmental Protection Act</i> and includes ecosystem health conditions and beneficial uses.</p> <p>Whilst having regard to safety issues, care should be taken not to carry out hazard reduction burning so frequently that it will prevent the ability of the vegetation to recover. Care should also be taken, for example, to prevent burning from spreading to a neighbouring property, national park (etc).</p> <p>This exemption only applies until the 7 July 2007 or until a Code of Practice under section 122A of the Environmental Protection Act is developed by the CEO, whichever occurs first.</p>

		This exemption does not apply in an environmentally sensitive area.
Regulation 5, Item 4- Clearing in accordance with a Code of Practice Clearing must be done by or with the prior authority of: A person to whom the Code applies.	Clearing in accordance with a Code of Practice issued by the CEO under section 122A of the Act.	This provision allows clearing in accordance with a Code of Practice issued under section 122A of the <i>Environmental Protection Act</i> . This exemption does not apply in an environmentally sensitive area.
Regulation 5, Item 5- Clearing for firewood Clearing must be done by or with the prior authority of: The owner or occupier.	Clearing to provide firewood use by the owner or occupier of the land on which the vegetation is located for domestic heating or cooking, being clearing which – (a) does not kill any live vegetation and does not prevent regrowth of the vegetation; (b) is carried out to provide firewood to the extent to which firewood could not be obtained from vegetation already cleared for another purpose; and (c) does not, together with all other limited clearing on the property in the financial year in which the clearing takes place, exceed 1 ha.	This exemption allows the owner or occupier of the land to clear native vegetation for firewood for domestic use only. Under the <i>Wildlife Conservation Act 1950</i> , vegetation cleared under this exemption cannot be sold but may be given away. Advice should be obtained from the Department of Conservation and Land Management as to the definition of sell, as it may include such things as raffling or bartering. Firewood must first be collected from clearing undertaken for another purpose. If no such cleared vegetation exists, it may either be of dead vegetation, or if of live trees such that it does not kill the tree or prevent its regrowth. This would allow taking of branches, or of resprouting species such as mallees. This exemption therefore allows a landholder to continue with traditional practices of gathering firewood from vegetation on the property, while placing some reasonable limits on those practices. Under this item you will notice that clearing for firewood, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year. This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year. <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5) • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11)

		<ul style="list-style-type: none"> • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19) <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 6- Clearing to provide fencing and farm materials</p> <p>Clearing must be done by or with the prior authority of: The owner or occupier.</p>	<p>Clearing to provide material for use by the owner or occupier of the land on which the vegetation is located for constructing and maintaining fences, buildings and other structures on land in the possession of the owner or occupier, being clearing which –</p> <p>(a) does not kill any live vegetation and does not prevent regrowth of the vegetation; and</p> <p>(b) is carried out to provide material to the extent to which the material could not be obtained from vegetation already cleared for another purpose; and</p> <p>(c) does not, together with all other limited clearing on the property in the financial year in which the clearing takes place, exceed 1 ha.</p>	<p>Both parts of this exemption must be satisfied before it applies. It allows the owner or occupier of the land to clear native vegetation for fence posts and other materials, <i>but only for the owner or occupier's personal use on the land in question</i>. Vegetation cleared under this exemption can not be sold, given away or used off-site.</p> <p>Fencing and farm materials must first be collected from clearing undertaken for another purpose. If no such cleared vegetation exists, it may either be of dead vegetation, or if of live trees such that it does not kill the tree or prevent its regrowth. This would allow taking of branches, or of resprouting species such as mallees.</p> <p>This exemption therefore allows a landholder to continue with traditional practices of gathering fencing and farm materials from vegetation on the property, while placing some reasonable limits on those practices.</p> <p>Under this item you will notice that clearing for fences and farm materials, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year.</p> <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5) • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11) • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19) <p>This exemption does not apply in an environmentally sensitive area.</p>

<p>Regulation 5, Item 7- Clearing for woodwork</p> <p>Clearing must be done by or with the prior authority of: The owner or occupier</p>	<p>Clearing to provide timber for use by the owner or occupier of the land on which the vegetation is located for non-commercial woodwork (in the nature of furniture-making, wood turning or carving), being clearing which –</p> <p>(a) does not kill any live vegetation and does not prevent regrowth of the vegetation;</p> <p>(b) is carried out to provide timber to the extent to which the timber could not be obtained from vegetation already cleared for another purpose; and</p> <p>(c) does not, together with all other limited clearing on the property in the financial year in which the clearing takes place, exceed 1 ha.</p>	<p>This exemption allows the owner or occupier of the land to clear native vegetation for woodwork for domestic use.</p> <p>Under the <i>Wildlife Conservation Act 1950</i>, vegetation cleared under this exemption can not be sold but may be given away. Advice should be obtained from the Department of Conservation and Land Management as to the definition of sell, as it may include such things as raffling or bartering.</p> <p>Timber for woodwork must first be sourced from clearing for another purpose</p> <p>If no such cleared vegetation exists, it may either be of dead vegetation or if of live trees such that it does not kill the tree or prevent its regrowth. This would allow taking of branches, or of resprouting species such as mallees.</p> <p>This exemption therefore allows a landholder to continue with traditional practices of gathering woodwork from vegetation on the property, while placing some reasonable limits on those practices.</p> <p>Under this item you will notice that clearing for woodwork, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year.</p> <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5) • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11) • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19) <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 8- Clearing for cultural</p>	<p>Clearing for the cultural or spiritual, but not commercial, purposes of an Aboriginal person on</p>	<p>This exemption allows clearing of native vegetation for traditional purposes by an Aboriginal person, provided that the Aboriginal person</p>

<p>purposes of an Aboriginal person</p> <p>Clearing must be done by: The Aboriginal person.</p>	<p>land to which the person has a cultural or spiritual connection and a right of access.</p>	<p>has a spiritual or cultural connection and has a right to access the land in question.</p> <p>An Aboriginal person's cultural or spiritual connection to particular land is determined in accordance with the body of traditions, observances and customs of the particular community or communities to which the Aboriginal person belongs or with which the person identified.</p> <p>An "Aboriginal person" means a person who is a descendant of one or more of the Aboriginal peoples of Australia, who claims to be an Aboriginal person and who is accepted as such in the community in which he or she lives.</p> <p>This exemption does not allow for commercial use of the native vegetation.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 9- Clearing by licensed surveyors</p> <p>Clearing must be done by or with the prior authority of: The authorised land officer or licensed surveyor.</p>	<p>Clearing by —</p> <p>(a) an authorised land officer or surveyor (as defined in the <i>Standard Survey Marks Act 1924</i>) in the exercise of powers under that Act; or</p> <p>(b) a licensed surveyor (as defined in the <i>Licensed Surveyors Act 1909</i>) in the course of making an authorised survey.</p>	<p>This exemption allows clearing by licensed surveyors and authorised land officers who in the course of their professional duties exercise any power under the <i>Standard Survey Marks Act 1924</i> or <i>Licensed Surveyors Act 1909</i>. This ensures that licensed surveyors and authorised land officers are able to continue to exercise their powers under these Acts.</p> <p>Standard survey marks are geodetic stations which establish a framework from which other surveying can be done.</p> <p>Authorised surveys relate to the creation of lots.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 10- Clearing along a fence line- alienated land</p> <p>Clearing must be done by or with the prior authority of: The owner of the property on which the clearing is to take place.</p>	<p>Clearing of alienated land along a fence line of, or within, a property to the width necessary to provide access to construct or maintain a fence, being clearing which does not, together with all other limited clearing carried out on the property in the financial year in which the clearing takes place, exceed 1 ha.</p>	<p>This exemption allows an owner to clear a strip of native vegetation on either side of a fence line on private property to provide access for fence maintenance or construction.</p> <p>Under this item you will notice that clearing along a fence line, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year.</p> <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5)

		<ul style="list-style-type: none"> • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11) • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19) <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 11- Clearing along a fence line- Crown land</p> <p>Clearing must be done by or with the prior authority of: The owner of the land on which the clearing is to take place.</p>	<p>Clearing of Crown land along a fence line to provide access to construct or maintain a fence-</p> <p>(a) between alienated land and Crown land- if the clearing is no more than 1.5 m from the fence line; or</p> <p>(b) between Crown land and Crown land- if the clearing is no more than 5 m from the fence line on one side and no more than 1.5 m from the fence line on the other side.</p>	<p>This exemption allows the government agency which has the care, control or management of the land, or a lessee under a lease lawfully granted by the Crown (such as a pastoral lease), to clear to provide access for fence maintenance or construction:</p> <p>(a) between alienated land and Crown land, a strip of native vegetation up to 1.5 metres wide on the Crown land along the fence line (this Item does not deal with clearing for a fence line on alienated land – see Item 10); or</p> <p>(b) between Crown land and Crown land a strip of native vegetation up to 5 metres on one side and 1.5 metres on the other side.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 12- Clearing for vehicular tracks</p> <p>Clearing must be done by or with the prior authority of: The owner of the property on which the clearing is to take place.</p>	<p>Clearing to construct or maintain a vehicular track on a property, being clearing which does not, together with all other limited clearing carried out on the property in the financial year in which the clearing takes place, exceed 1 ha, if —</p> <p>(a) the clearing for the track is no wider than necessary;</p> <p>(b) there is at least 100 m between that track and any other cleared land that can be used for the purpose for which the particular track is intended;</p> <p>(c) the vegetation is not in a road reserve; and</p> <p>(d) the vegetation is not riparian vegetation (unless there is no reasonable alternative route and the track is necessary for the commercial activities carried out on the property).</p>	<p>This exemption allows for clearing of a strip of native vegetation to the extent necessary for an access track. For example, this may be for general access to a property or to farm infrastructure such as a hay shed.</p> <p>There must be at least 100m between the track and any other cleared land that can be used for the purpose intended for that track. This may include other cleared areas.</p> <p>Construction of vehicle tracks within sensitive <i>riparian vegetation</i> is generally not allowed, but where there is no reasonable alternative route, and the track is necessary for the commercial activities of the property, it may pass through riparian vegetation.</p> <p>Under this item you will notice that clearing for a vehicle track, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year.</p>

		<p>This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year.</p> <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5) • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11) • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19) <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 13- Clearing for walking tracks</p> <p>Clearing must be done by or with the prior authority of: The owner of the property on which the clearing is to take place.</p>	<p>Clearing to construct or maintain a walking track on a property, being clearing which does not, together with all other limited clearing carried out on the property in the financial year in which the clearing takes place, exceed 1 ha, if –</p> <p>(a) the clearing for the track is no wider than necessary;</p> <p>(b) the track is used by pedestrians or there is a reasonable expectation that it will be used by pedestrians.</p>	<p>This exemption allows clearing for the installation and maintenance of walking tracks.</p> <p>Under this item you will notice that clearing for a walking track, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year.</p> <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5) • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11) • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19) <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 14- Clearing to maintain existing cleared areas for pasture, cultivation or</p>	<p>Clearing of land that was lawfully cleared within the 10 years prior to the clearing if –</p> <p>(a) the land has been used as pasture or for cultivation or forestry within those 10 years; and</p>	<p>This exemption is largely about allowing clearing of native vegetation that has regrown on land that has been used for cultivation, pasture or forestry over the previous ten years. <i>Both parts (a) and (b) need to be satisfied.</i></p>

<p>forestry</p> <p>Clearing must be done by or with the prior authority of: The owner or occupier of the land on which the clearing is to take place.</p>	<p>(b) the clearing is only to the extent necessary to enable the land to be used to the maximum extent to which it was used in those ten years.</p>	<p>On such land, native vegetation that has grown within the previous ten years can be cleared to allow the same level of use for pasture, cultivation, or forestry as has applied within the last ten years. To achieve a greater area of cleared land than that which existed within the previous ten years requires a clearing permit.</p> <p>Note that this exemption only applies if the original clearing was lawful – in other words it will not authorise the maintenance of areas that were cleared illegally.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 15- Clearing to maintain existing cleared areas around infrastructure etc.</p> <p>Clearing must be done by or with the authority of: The owner or occupier of the land on which the clearing is to take place.</p>	<p>Clearing of land that was lawfully cleared within the 10 years prior to the clearing, for one of the following purposes-</p> <p>(a) around a building or structure for the use of the building or structure; (b) for a fire risk reduction area for a building; (c) to maintain an area along a fence line to provide access to construct or maintain the fence; or (d) to maintain a vehicular or walking track, to the extent of the prior clearing.</p> <p>Clearing of land that was previously lawfully cleared for one of the following purposes if the clearing does not exceed the extent specified for the purpose-</p> <p>(a) around a building or structure for the use of the building or structure- 20 m from the building or structure; (b) for a fire risk reduction area for a building- 20 m from the building; (c) to maintain an area along a fence line to provide access to construct or maintain the fence- 5 m from the fence line; (d) to maintain a vehicular or walking track- 5 m wide.</p>	<p>This exemption allows for clearing for maintenance of areas previously cleared for buildings or structures, for fence lines, for fire risk reduction or for vehicular or walking tracks within ten years to the maximum extent of the previous clearing.</p> <p>The second clause provides for situations where clearing for the above purposes may have taken place more than ten years prior, or where it is unclear how much vegetation was cleared previously. This clause allows clearing up to the amount specified for each activity.</p> <p>Note that this exemption only applies if the original clearing was lawful – in other words it will not authorise the maintenance of areas that were cleared illegally.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

<p>Regulation 5, Item 16- Clearing under the <i>Rights in Water and Irrigation Act 1914</i></p> <p>Clearing must be done by or with the prior authority of: The person to whom the permit is granted or other approval is given.</p>	<p>Clearing that is the result of carrying out works under a permit or other approval under, or referred to in, section 11, 16, 17 or 21A of the <i>Rights in Water and Irrigation Act 1914</i>.</p>	<p>A clearing permit is not required where approvals have been granted under the <i>Rights in Water and Irrigation Act</i> to carry out works to take water or to interfere with the bed and banks of a watercourse.</p> <p>This item does not exempt clearing relating to a section 5C licence to take surface water or groundwater.</p> <p>Impacts on native vegetation as a result of these approvals are considered as part of the permit application under the <i>Rights in Water and Irrigation Act</i>.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 17- Clearing under the <i>Country Areas Water Supply Act 1947</i></p> <p>Clearing must be done by or with the prior authority of: The person to whom the licence is granted.</p>	<p>Clearing in accordance with a clearing licence granted under section 12C of the <i>Country Areas Water Supply Act 1947</i> if –</p> <p>(a) the licence is granted before Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation; and</p> <p>(b) the clearing takes place within 2 years after Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation.</p>	<p>This exemption ensures that if you were issued a clearing licence under the <i>Country Areas Water Supply Act (CAWS Act)</i> before 8 July 2004 (the commencement of the clearing provisions under the <i>Environmental Protection Act</i>) you do not need to obtain a clearing permit.</p> <p>This exemption is for clearing that is completed by 7 July 2006.</p> <p>(Note: A consequential amendment to the <i>Country Areas Water Supply (Clearing Licence) Regulations 1981</i> has been made so that where a clearing permit is issued under the <i>Environmental Protection Act</i>, the person does not also have to obtain a clearing licence under the <i>CAWS Act</i>. The only exception is that a <i>CAWS Act</i> licence is still required if compensation has been paid under that Act.)</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 18- Clearing under the <i>Swan River Trust Act 1988</i></p> <p>Clearing must be done by or with the prior authority of: In the case of paragraph (a), the person to whom the approval is granted, in the case of paragraph (b), a person.</p>	<p>Clearing –</p> <p>(a) in accordance with an approval under Part 5 of the <i>Swan River Trust Act 1988</i>; or</p> <p>(b) as described in regulation 6(2) of the <i>Swan River Trust Regulations 1989</i>.</p>	<p>This exemption applies to:</p> <ul style="list-style-type: none"> the person to whom the approval is granted under Part 5 of the <i>Swan River Trust Act 1988</i>; or the person carrying out the clearing described in regulation 6(2) of the <i>Swan River Trust Regulations 1989</i>. <p>This exemption ensures that multiple approvals are not required from the Department of Environment in respect to approvals issued under the <i>Swan River Trust Act</i>.</p> <p>Impacts on native vegetation are considered as part of the application assessment under the <i>Swan River Trust Act</i>.</p>

		This exemption does not apply in an environmentally sensitive area.
<p>Regulation 5, Item 19- Clearing of isolated trees</p> <p>Clearing must be done with the prior authority of: The owner of the property on which the tree is located.</p>	<p>Clearing of a tree on a property that is in an otherwise cleared area on the property and is more than 50 m from any other native vegetation, being vegetation which does not, together with all other limited clearing carried out on the property in the financial year in which the clearing takes place, exceed 1 ha.</p>	<p>This exemption allows for the removal of a paddock tree more than fifty metres from other native vegetation.</p> <p>Under this item you will notice that clearing an isolated tree, combined with other exempt clearing activities on the property, may not exceed 1 hectare in a financial year. The area of a tree is calculated by the using the drip line of the tree.</p> <p>This means that if you clear for any of the following purposes, the clearing may not add up to more than 1 hectare in a financial year.</p> <ul style="list-style-type: none"> • Clearing to construct a building (Item 1) • Clearing to collect firewood (Item 5) • Clearing to obtain fencing or farming materials (Item 6) • Clearing for woodwork (Item 7) • Clearing for fence lines (Items 10 & 11) • Clearing for vehicular tracks (Item 12) • Clearing for walking tracks (Item 13) • Clearing isolated trees (Item 19) <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 20- Clearing resulting from low impact or other mineral or petroleum activities</p> <p>Clearing must be done by or with the prior authority of: The person granted the authority to carry out the activity.</p>	<p>Clearing that is the result of carrying out a low impact or other mineral or petroleum activity, as set out in Schedule 1, if the activity is carried out –</p> <p>(a) in accordance with Schedule 1; and</p> <p>(b) in a permitted area as set out in Schedule 1.</p>	<p>This exemption allows clearing for low impact or other mineral or petroleum activities within the permitted areas outlined in Schedule 1 of the regulations.</p> <p>Clearing activities that have been identified as “low impact” are those that have a minimal or low impact on native vegetation and may be regulated under processes administered by the Department for Industry and Resources.</p> <p>Examples may include some clearing for temporary tracks, drilling, clearing for campsites, anchoring vessels and removing marine growth from certain structures. Please check Schedule 1 to determine whether or not these exemptions apply to you.</p> <p>There is a requirement that all cleared areas are progressively</p>

		<p>rehabilitated.</p> <p>An exemption for other mineral or petroleum activities is defined in clause 2(2) of Schedule 1 and allows clearing of up to 10 hectares per financial year for clearing authorised under the <i>Mining Act 1978</i> and the various Petroleum Acts in an authority area.</p> <p>Authority area is defined as the area in which the holder of various authorities may carry out the activity or activities authorised by that authority.</p> <p>The area to which these exemptions apply is also defined in Schedule 1. The area does <u>not</u> include:</p> <ul style="list-style-type: none"> • environmentally sensitive areas • the intensive land use zone • occupied townsites; • conservation areas; • water reserves and water supply areas; • riparian vegetation; • near-coastal areas; • Priority 1 areas of wild rivers; and • Red Book areas which contain areas proposed for conservation. <p>These exemptions do not apply in an environmentally sensitive area.</p>
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<p>Regulation 5, Item 21- Clearing for a temporary bypass road</p> <p>Clearing must be done by or with the authority of: The Commissioner of Main Roads, the Public Transport Authority, the local government, the person or entity responsible for the stretch of road.</p>	<p>Clearing that is the result of the construction of a temporary vehicular track that is necessary to bypass a stretch of road that is impassable due to unforeseen damage to part of that stretch of road.</p>	<p>This exemption allows for the creation of temporary emergency diversion access tracks following damage of a road by events such as flooding. This exemption is available only to road managers.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 22- Clearing in existing transport corridors</p> <p>Clearing must be done by or with the prior authority of: The Commissioner of Main Roads, the Public Transport Authority, the local government, the person or entity responsible for the stretch of road or railway.</p>	<p>Clearing in relation to a stretch of road or railway if the clearing is —</p> <p>(a) in an area or for a purpose specified in Schedule 2;</p> <p>(b) to the extent specified for that area or purpose in Schedule 2;</p> <p>(c) in accordance with Schedule 2; and</p> <p>(d) done before the earlier of —</p> <p>(i) the expiry of 2 years after Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation; or</p> <p>(ii) a Code of Practice being issued under section 122A of the Act that substantially covers the matters dealt with by this item and Schedule 2. railway, the owner of the road or railway.</p>	<p>This transitional exemption allows for maintenance of road and railway verges in accordance with Schedule 2 of the regulations.</p> <p>Schedule 2 defines:</p> <ul style="list-style-type: none"> • the area or purpose for which clearing may be allowed; • the extent of the clearing that is permissible and; • how the clearing is to be carried out. <p>This exemption applies for a period of two years (up to 7 July 2006), or until a code of practice under s.122A of the <i>Environmental Protection Act 1986</i> is issued, whichever is the earlier.</p> <p>While this exemption does not apply in environmentally sensitive areas, clearing the maintenance area of a stretch of road or railway, where that area has been cleared before and is cleared in accordance with Regulation 5, Item 22, is deemed not to be clearing within an environmentally sensitive area.</p> <p>For an official version of Schedule 2, please refer to the <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i>.</p>
<p>Regulation 5, Item 23- Clearing resulting from infrastructure maintenance activities</p>	<p>Clearing that is the result of carrying out an infrastructure maintenance activity described in Schedule 3 if the activity is carried out in accordance with Schedule 3 and within —</p> <p>(a) in the case of an activity referred to in Schedule 3</p>	<p>This exemption allows local government or a utility to clear to maintain existing infrastructure in accordance with Schedule 3 until 7 July 2005 (a period of twelve months following the commencement of the clearing provisions in the <i>Environmental Protection Act</i>).</p>

<p>Clearing must be done by or with the prior authority of: The utility or local government responsible for the infrastructure.</p>	<p>clause 1(a), (b) or (c) – 12 months after Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation; or (b) in the case of an activity referred to in Schedule 3 clause 1(d) – 18 months after Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation.</p>	<p>Schedule 3 lists the types of clearing activities that are can be carried out under this exemption and sets out conditions for the clearing.</p> <p>This is a twelve month exemption for:</p> <ul style="list-style-type: none"> • maintenance of existing infrastructure; • construction of infrastructure if the construction has commenced before the 8 July 2004 (the date the clearing provisions of the <i>Environmental Protection Act</i> were proclaimed); • use of existing road or rail building sites used within the prior two years. <p>This exemption also includes an eighteen-month exemption for road realignment, road widening or construction of crossovers for existing roads (to expire 7 January 2006).</p> <p>After these times, these clearing activities will require a clearing permit.</p> <p>This exemption does not apply in an environmentally sensitive area.</p> <p>For an official version of Schedule 3, please refer to the <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i>.</p>
<p>Regulation 5, Item 24- Clearing under a Petroleum Act</p> <p>Clearing must be done by or with the prior authority of: A person covered by the authority to carry out the exploration.</p>	<p>Clearing that is the result of carrying out exploration under an authority under the <i>Petroleum Act 1967</i>, the <i>Petroleum Pipelines Act 1969</i>, or the <i>Petroleum (Submerged Lands) Act 1982</i> if the clearing is done before 8 January 2006.</p>	<p>This exemption allows clearing for exploration approved under various Petroleum Acts carried out before 8 January 2006.</p> <p>From 8 January 2006, this type of clearing will require a permit, unless it is defined as a low impact activity under Regulation 5, Item 20.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 25- Clearing under the Mining Act 1978</p> <p>Clearing must be done by or with the prior authority of: The person granted the</p>	<p>Clearing that is the result of carrying out prospecting or exploration under an authority granted under the <i>Mining Act 1978</i> if the clearing is done before 8 January 2006.</p>	<p>This exemption allows clearing for prospecting or exploration activities approved under the Mining Act carried out before 8 January 2006.</p> <p>From 8 January 2006 this type of clearing will require a permit, unless it is defined as a low impact activity under Regulation 5, Item 20.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

<p>authority to carry out the prospecting or exploration.</p>		
<p>Regulation 5, Item 26- Clearing in accordance with a notice of intention under the <i>Soil and Land Conservation Regulations 1992</i></p> <p>Clearing must be done by or with the prior authority of: The person who gave the notice of intention.</p>	<p>Clearing that is the result of carrying out an activity —</p> <p>(a) in respect of which notice of intention was given under regulation 5 or 6 of the <i>Soil and Land Conservation Regulations 1992</i> before Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation and at least 90 days before the activity was commenced;</p> <p>(b) which is commenced not more than 2 years after the giving of the notice of intention and is completed not more than 2 years after Part 9 of the <i>Environmental Protection Amendment Act 2003</i> comes into operation;</p> <p>(c) which was not referred to the Authority as a proposal under Part IV of the Act, or was so referred and not accepted by the Authority; and</p> <p>(d) in respect of which a soil conservation notice, within the meaning of Part V of the <i>Soil and Land Conservation Act 1945</i>, has not been served.</p>	<p>This exemption applies to:</p> <ul style="list-style-type: none"> the person who gave the notice of intention <p>This exemption allows clearing where a notice of intent to drain under regulations 5 and 6 of the <i>Soil and Land Conservation Regulations 1992</i> was given at least 90 days before 8 July 2004.</p> <p>The clearing must have commenced not more than 2 years after the giving of the notice, and be completed not more than 2 years after 8 July 2004 (the commencement day of the clearing provisions in the <i>Environmental Protection Act</i>).</p> <p>The exemption does not apply where the clearing was referred to the Environmental Protection Authority or where a soil conservation notice was served in respect of the clearing.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

Glossary

Beneficial use

“Beneficial use” means a use of the environment, or of any portion thereof, which is:

- (a) conducive to public benefit, public amenity, public safety, public health or aesthetic enjoyment and which requires protection from the effects of emissions or of activities referred to in paragraph a) or (b) of the definition of “environmental harm” in section 3A(2); or
- (b) identified and declared under section 35(2) to be a beneficial use to be protected under an approved policy.

Bush fire control officer

A bush fire control officer as appointed under section 38 of the Bush Fires Act 1954.

Crown land

Has the meaning given to that term in section 3(1) of the *Land Administration Act 1997*.

Decision-making authority

A public authority empowered by or under:

- (a) a written law; or
 - (b) any agreement-
 - (i) to which the State is a party; and
 - (ii) which is ratified or approved by an Act,
- to make a decision in respect of any proposal.

A “proposal” means a project, plan, program, policy, operation, undertaking or development or change in land use, or amendment of any of the foregoing, but does not include a scheme.

Ecosystem health condition

“Ecosystem health condition” means a condition of the ecosystem which is:

- (a) relevant to the maintenance of ecological structure, ecological function or ecological processes and which requires protection from the effects of emissions or of activities referred to in paragraph (a) or (b) of the definition of “environmental harm” in section 3A(2); or
- (b) identified and declared under section 35(2) to be an ecosystem health condition to be protected under an approved policy.

Environmental value

“Environment value” means:

- (a) a beneficial use; or
- (b) an ecosystem health condition.

Fire hazard reduction burning

Burning or partial burning of vegetation to reduce the risk of injury or damage to persons and property from an uncontrolled fire in the vegetation.

Fire risk reduction area

In relation to a building, means a low fuel area designed to minimise the likelihood of flames contacting the building.

Fence

A structure, that is permanently fixed to the ground, for controlling movement of persons or animals.

Limited clearing

Clearing described in section 5(1) item 1, 5, 6, 7, 10, 12, 13 or 19.

Occupier

“Occupier” of land means a person who is in occupation or control of the land, or who is entitled to be in occupation or control of the land.

Owner

“Owner” of land means:

- (a) in relation to land alienated from the Crown, the holder (at law or in equity) of an estate in fee simple in the land;
- (b) in relation to the land that the Crown has lawfully agreed to alienate, the person who is entitled to the benefit of the agreement;
- (c) in relation to the land held under a lease lawfully granted by the Crown, the lessee; and
- (d) in relation to any other land, the public authority that has the care, control or management of the land, or if there is no such public authority, the Crown.

Property

An area of land that is managed as a single property whether or not it is made up of a number of properties held under separate titles.

Riparian vegetation

The distinctive vegetation associated with a wetland or watercourse.

Utility (Regulation 5, Item 23)

A utility is defined as:

- (a) Alinta Gas Networks Pty Ltd., CAN 089 531 975;
- (b) The Commissioner of Main Roads appointed under the *Main Roads Act 1930*;
- (c) Telstra Corporation Limited, CAN 051 775 556;
- (d) The Water Corporation established by section 4 of the *Water Corporation Act 1995*;
- (e) The Western Power Corporation continued by section 4 of the *Electricity Corporation Act 1994*;
- (f) The Public Transport Authority established by section 5 of the *Public Transport Authority Act 2003*.

Watercourse

Has the same meaning as it has in the Rights in Water and Irrigation Act 1914.

1. “Watercourse” means-

- (a) any river, creek, stream or brook in which water flows;
- (b) any collection of water (including a reservoir) into, through or out of which any thing coming within paragraph (a) flows;
- (c) any place where water flows that is prescribed by local by-laws to be a watercourse;
- (d) and includes the bed and banks of any thing referred to in paragraph (a), (b) or (c).

2. For the purposes of the definition in subsection (1) –

- (a) a flow or collection of water comes within that definition even though it is only intermittent or occasional;

- (b) a river, creek, stream or brook includes a conduit that wholly or partially diverts it from its natural course and forms part of the river, creek, stream or brook; and
- (c) it is immaterial that a river, creek, stream or brook or a natural collection of water may have been artificially improved or altered.

Wetland

An area of seasonally, intermittently or permanently waterlogged or inundated land, whether natural or otherwise, and includes a lake, swamp, marsh, spring, dampland, tidal flat or estuary.

Department Of Environment Offices

Perth

Hyatt Centre
3 Plain Street, East Perth WA 6004
PO Box 6740 Hay Street
East Perth WA 6892
Phone (08) 9278 0300
Fax (08) 9278 0301
Email: nvp@environment.wa.gov.au
Web: www.environment.wa.gov.au

The following regions have Native Vegetation Officers and can provide information and advice on clearing native vegetation.

Albany

5 Bevan St, Albany WA 6330
PO Box 525, Albany WA 6331
Phone (08) 9842 5760
Fax (08) 9842 1204

Bunbury

35 - 39 McCombe Road, Bunbury WA 6230 (Halifax Industrial Area)
PO Box 261, Bunbury WA 6231
Phone (08) 9726 4111
Fax (08) 9726 4100

Carnarvon

211 Robinson St, Carnarvon WA 6701
PO Box 81, Carnarvon WA 6701
Phone (08) 9941 4921
Fax (08) 9941 4931

Geraldton

81 Forrest St, Geraldton WA 6530
PO Box 73, Geraldton WA 6531
Phone (08) 9964 5978
Fax (08) 9964 5983

Kalgoorlie

Viskovich House
377 Hannan Street
Kalgoorlie WA 6430
Phone(08) 9021 3243
Fax (08)9021 3529

Kununurra

Lot 225 Bandicoot Dr, Kununurra WA 6743
PO Box 625, Kununurra WA 6743
Phone (08) 9166 4100
Fax (08) 9168 3174

Mandurah

Suite 8, Sholl House
21 Sholl St, Mandurah WA 6210
PO Box 332, Mandurah WA 6210
Phone (08) 9550 4222
Fax (08) 9581 4560

Northam

254 Fitzgerald St, Northam WA 6401
PO Box 497, Northam WA 6401
Phone (08) 9622 7055
Fax (08) 9622 7155

Swan Goldfields- (Victoria Park)

7 Ellam Street
Victoria Park WA 6100
Phone: (08) 6250 8000
Fax: (08) 6250 8050

The following offices can provide application forms and basic information, but do not have Native Vegetation Officers.

Denmark

Suite 1, 55 Strickland St, Denmark WA 6333
Phone (08) 9848 1866
Fax (08) 9848 1733

Karratha

Lot 980 Cherratta Rd, KIE Karratha WA 6714
PO Box 836, Karratha WA 6714
Phone (08) 9144 2000
Fax (08) 9144 2610

Manjimup

52 Bath St, Manjimup WA 6258
Phone (08) 9771 1878
Fax (08) 9771 81