



Government of **Western Australia**
Department of **Environment Regulation**

A GUIDE TO THE EXEMPTIONS AND REGULATIONS FOR CLEARING NATIVE VEGETATION

UNDER PART V OF THE ENVIRONMENTAL PROTECTION ACT 1986



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Overview

In 2004, amendments to the Environmental Protection Act 1986 (EP Act) introduced provisions for regulating the clearing of native vegetation.

If you intend to clear native vegetation, you will need to apply for a permit from either the Department of Environment Regulation (DER) or the Department of Mines and Petroleum, or otherwise an exemption must apply. It is an offence to clear native vegetation without the authority of a permit or an exemption.

Exempt clearing does not require a permit. There are two types of exemptions.

The first type is found in Schedule 6 of the EP Act. These exemptions may be referred to as the Schedule 6 exemptions.

The second type is found in the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (Regulations). These may be referred to as exemptions under Regulations.

The exemptions under Regulations do not apply in environmentally sensitive areas (ESAs) declared under section 51B of the EP Act.

This guide explains what the exemptions are, the circumstances in which they apply and what is defined as intentionally planted vegetation.

Please note that while your clearing might be exempt from the requirement for a clearing permit under the EP Act, requirements contained in other legislation could apply.

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 the Regulations work.

If you are looking for a particular clearing activity or topic that might be exempt, you can refer to the Index on pages five and six, which lists items by their topic (e.g. 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 should phone DER on 6467 5020. For exemptions relating to mineral and petroleum activities contact Department of Mines and Petroleum's Native Vegetation Assessment Branch on 9222 3333.

More general information about clearing native vegetation can be found at www.der.wa.gov.au/nvp.

Please note...

The information provided in this document is current as at November 2013 and outlines some of the laws for regulating 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.

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Section 1 – Schedule 6 exemptions

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

- The first column refers to the clause 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	<p>Clearing that is done in order to give effect to a requirement to clear under a written law.</p>	<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. It is necessary that the requirement under the written law can be characterised as a 'requirement to clear', not just a requirement for which clearing may be incidentally connected.</p> <p>Example 1 Section 54 of the Energy Operators (Powers) Act 1979</p> <p>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.</p> <p>Example 2 Section 33 of the Bush Fires Act 1954</p> <p>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.</p> <p>Example 3 Land Administration Act 1997</p> <p>Clearing to maintain or reconstruct existing fences (and other pastoral improvements) is a requirement of section 107(3). (cont'd)</p>

Clause no.	Wording of exemption	Comment / explanation
		<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 a requirement.</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.</p> <p>For more information, 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>
2. Assessment by the Environmental Protection Authority	<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 48(2), was not referred to the Authority,</p> <p>in the implementation of the proposal in accordance with a subdivision approval, a development approval or a planning approval given by the responsible authority; (cont'd)</p>	<p>(a) This exemption applies to clearing assessed under section 40 as part of a proposal referred under section 38 of Part IV of the EP Act. The clearing must be in accordance with the implementation agreement or decision. Implementation agreement or decision is defined in section 3 of the EP Act.</p> <p>This exemption does not apply to proposals which the Environmental Protection Authority has decided not to formally assess, whether or not the Environmental Protection Authority provides advice to the proponent or decision making authorities. It also does not apply to expansions or works not covered by the conditions of the original proposal unless done in accordance with the implementation agreement or decision.</p> <p>(b) This exemption applies to assessed schemes implemented in accordance with a subdivision approval, development approval or planning approval where the clearing of native vegetation was assessed. Assessed scheme is defined in section 3 of the EP 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 Environmental Protection Authority should be contacted for advice. (cont'd)</p>

Clause no.	Wording of exemption	Comment / explanation
	<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 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; or</p> <p>(d) in the exercise of any power conferred under this Act.</p>	<p>(c) This exemption allows clearing in accordance with the items listed. “In accordance with” means as dictated by the works approval, licence or other instrument. Clearing native vegetation is not usually assessed as part of an application for a works approval or 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>(d) This exemption allows clearing that is done in the exercise of any power given under the EP Act.</p>
<p>3. Clearing carried out by the Department of Parks and Wildlife</p>	<p>Clearing by the Department, within the meaning of the Conservation and Land Management Act 1984, 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 Parks and Wildlife 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 Parks and Reserves Authority.</p> <p>The clearing must:</p> <ol style="list-style-type: none"> 1) be in accordance with a management plan where there is a management plan; 2) where there is no such plan – <ol style="list-style-type: none"> (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 (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 the park or management area; (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 Conservation and Land Management Act 1984).

Clause no.	Wording of exemption	Comment / explanation
4. Clearing under the Sandalwood Act 1929	Clearing authorised under a licence – (a) referred to in paragraph (a); or (b) granted under paragraph (b), of section 3(1) of the Sandalwood Act 1929.	This exemption allows a person licensed under the Sandalwood Act 1929 to take sandalwood in accordance with the terms and conditions of the licence.
5. Taking flora under the Wildlife Conservation Act 1950	Clearing consisting of the taking of flora – (a) as authorised under a licence under section 23C of the Wildlife Conservation Act 1950; or (b) as consented to under section 23F of the Wildlife Conservation Act 1950 by the Minister administering that Act.	This exemption allows a person holding a commercial purposes licence under section 23C of the Wildlife Conservation Act 1950 to take protected flora for sale in accordance with the terms and conditions of the licence. This exemption also allows a person who has obtained the consent of the Minister under section 23F of the Wildlife Conservation Act 1950 to take flora declared as rare.
6. Taking flora under the Wildlife Conservation Act 1950	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 Wildlife Conservation Act 1950 for the purposes of sale under a licence issued under that section.	This exemption allows a person holding a Commercial Producer's licence under section 23D of the Wildlife Conservation Act 1950 to take protected flora for sale in accordance with the terms and conditions of the licence. Note that section 23D of the Wildlife Conservation Act 1950, requires the Minister to consider the clearing principles set out in Schedule 5 of the EP. Act. The Minister shall not issue a licence under the Wildlife Conservation Act 1950 if the taking of protected flora would be seriously at variance with those principles.
7. Clearing by the Forest Products Commission	Clearing under the Forest Products Act 2000, of vegetation maintained, or established and maintained, under section 10(1)(g) of that Act.	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. 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 share-farmed land.

Clause no.	Wording of exemption	Comment / explanation
<p>8. Specific clearing under the Forest Products Act 2000</p>	<p>Clearing under a production contract or road contract entered into and having effect under the Forest Products Act 2000.</p>	<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 be managed, harvested, or sold are in accordance with the relevant management plan. <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 Parks and Wildlife if the management plan allows for the management or harvesting of forest products.</p>
<p>9. Clearing under the Planning and Development Act 2005</p>	<p>Clearing in accordance with a subdivision approval given by the responsible authority under the Planning and Development Act 2005, including –</p> <ol style="list-style-type: none"> (a) clearing for the purposes of any development that is deemed by section 157 of that Act to have been approved by the responsible authority; and (b) clearing in any building envelope described in the approved plan or diagram 	<p>This exemption allows clearing in accordance with a subdivision deemed approved by the responsible authority under the Planning and Development Act 2005.</p> <p>This may include 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>
<p>10. Clearing under the Bush Fires Act 1954</p>	<p>Clearing that is done –</p> <ol style="list-style-type: none"> (a) as permitted under section 17(5); or (b) in accordance with a permit obtained under section 18; or (c) in accordance with permission granted under section 22(c); or (d) under section 22(2), 23, 26A, 39(1)(d) or 44(1)(c); or (e) as authorised by a proclamation under section 26, <p>of the Bush Fires Act 1954.</p>	<p>This exemption allows clearing under the Bush Fires Act 1954 for:</p> <ul style="list-style-type: none"> • burning during a restricted time if a permit is obtained from a bush fire control officer; • 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. <p>Bush fire control officers are appointed under section 38 of the Bush Fires Act 1954.</p>

Clause no.	Wording of exemption	Comment / explanation
11. Clearing under the Fire Brigades Act 1942	Clearing that is done under section 34(a), (c) or (h) of the Fire Brigades Act 1942.	Under the Fire Brigades Act 1942 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 Land Administration Act 1997, by the Fire and Emergency Services Authority of Western Australia established under the Fire and Emergency Services Authority of Western Australia Act 1998.	This exemption allows clearing by the Department of Fire and Emergency Services for fire prevention or control purposes or for other fire management works on Crown land.
13. Clearing under the Land Administration Act 1997	Clearing caused by the grazing of stock on land under a pastoral lease within the meaning of the Land Administration Act 1997 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 Land Administration Act 1997, the terms and conditions of the pastoral lease and any relevant condition or determination by the Pastoral Lands Board.
14. Clearing under the Fish Resources Management Act 1994	Clearing of aquatic vegetation that occurs under the authority of a licence or permit within the meaning of the Fish Resources Management Act 1994.	This exemption allows the clearing of aquatic vegetation that is authorised by a licence or permit issued under the Fish Resources Management Act 1994. 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.

Section 2 – Regulations

The Environmental Protection (Clearing of Native Vegetation) Regulations 2004 address a number of matters related to clearing of native vegetation, such as:

- When intentionally planted vegetation is defined as native vegetation and therefore the rules for clearing of native vegetation will apply.
- Fees to lodge an application to clear native vegetation.
- The information that DER must keep about applications to clear.
- The information that DER must publish about applications to clear and decisions on clearing of native vegetation.
- Clearing activities that do not require a permit if carried out outside of an environmentally sensitive area declared under section 51B of the EP Act.

Please note that the following section is not the official version of the Regulations, but a guide that explains to you how the exemptions under the Regulations work. The explanations do not address Regulations 7 (fees) and 8 (records to be kept by the CEO). For information on these exemptions, refer to the official version of the Regulations.

The official version can be obtained by contacting the State Law Publisher (08) 6552 6000 or visit www.slp.wa.gov.au.

Regulations 1, 2 and 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 to which they relate.

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 of the EP Act as “one or more groups of trees, shrubs or plants intentionally sown, planted or propagated with a view to commercial exploitation”.

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.

Vegetation that is required to be sown, planted or propagated under a written law will often be as a result of conditions of an authorisation or lease.

Intentionally planted vegetation that is declared to be native vegetation

Regulation 4 prescribes the kinds of intentionally planted indigenous vegetation that are “native vegetation” and which therefore require a clearing permit or exemption to clear and includes:

- (a) Planting that was funded (wholly or partly):
 - (i) by a person who was not the owner of the land; and
 - (ii) for the purpose of biodiversity conservation or land conservation.

OR

- (b) Intentionally planted vegetation that has one of the following:
 - (i) a conservation covenant or agreement to

reserve under section 30B of the Soil and Land Conservation Act 1945;

(ii) a covenant to conserve under section 21A of the National Trust of Australia (WA) Act 1964;

(iii) a restrictive covenant to conserve under section 129B of the Transfer of Land Act 1983;

(iv) some other form of binding undertaking to establish and maintain, or maintain, the vegetation.

For the purposes of Regulation 4, biodiversity conservation includes conservation of species diversity, genetic diversity or ecosystem diversity and land conservation includes management of salinity, erosion, soil acidity or waterlogging. Planting includes to sow and to propagate.

Regulation 5 — Prescribed clearing

This Regulation includes a table of exemptions, referred to as “items”. Each exemption listed in the table only applies if the clearing is either done by the person specified in the table, or with that person’s prior authority.

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 neighbouring vegetation.

Clearing under exemptions set out in Regulation 5 must also fit within the description set out in the Table to Regulation 5.

Five-hectare limit

Certain items under the Regulations only exempt clearing to the extent that the total combined clearing under any of these exemptions does not exceed five hectares in any financial year.

This means that if you clear under one or more of the following items, the total area cleared for all of these purposes may not add up to more than five hectares 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, Item 10)
- Clearing for vehicular tracks (Regulation 5, Item 12)
- Clearing for walking tracks (Regulation 5, Item 13)
- Clearing isolated trees (Regulation 5, Item 19)

Environmentally sensitive areas

There are a number of areas where the exemptions under the Regulations do not apply. These areas are environmentally sensitive areas (ESAs) declared by the Minister under section 51B of the EP Act. If you want to clear native vegetation in an environmentally sensitive area for one of the purposes in the Table, you will need to apply for a clearing permit.

The current ESAs are contained in the Environmental Protection (Environmentally Sensitive Areas) Notice 2005 published in the Western Australian Government Gazette, Friday 8 April 2005, No. 55. For a copy of the Gazette, contact the State Law Publisher on (08) 6552 6000 or visit www.slp.wa.gov.au.

A web viewer can assist you in locating some of the environmentally sensitive areas. Users are advised that the map is not the legal list. To use the viewer visit the DER website at www.der.wa.gov.au/nvp.

This table lists the exemptions that can be found in Regulation 5 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.

- The first column refers to the Item number in Regulation 5.
- The second column shows the legal wording of the exemption.
- The third column uses simpler language to explain how the exemption works.

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 1</p> <p>Clearing to construct a building</p> <p>Clearing must be done by or with the prior authority of:</p> <p>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 five hectares, if –</p> <p>(a) the clearing is to the extent necessary; and</p> <p>(b) the vegetation is not riparian vegetation.</p>	<p>Clearing of native vegetation for the lawful construction of a building or other structure is exempt as long as other relevant approvals have been obtained, including any planning approvals and building licence.</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</p> <p>(b) intended to be used as a permanent building.</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 riparian vegetation.</p> <p>“Riparian vegetation” means the distinctive vegetation associated with a wetland or watercourse.</p> <p>“Property” means 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.</p> <p>Under this item you should note that clearing for a building, combined with other exempt clearing activities on the property, must not exceed five hectares 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 five hectares in a financial year.</p> <p>(cont'd)</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 2</p> <p>Clearing resulting from accidents or to reduce danger</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The owner of the land on which the clearing is to take place; or</p> <p>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>	<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 (Item 10) • 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 2</p> <p>Clearing resulting from accidents or to reduce danger</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The owner of the land on which the clearing is to take place; or</p> <p>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>In regard to clearing under this exemption:</p> <p>(a) The danger or risk to the environment must be present, immediate or imminent, and not remote either as to likelihood or as to time of occurrence.</p> <p>(b) An accident is an event that is neither intended nor foreseen and where a person can demonstrate that the event did not result from any conduct of the person which was careless, negligent or reckless.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 3</p> <p>Clearing for fire hazard reduction</p> <p>Clearing must be done by or with the authority of:</p> <p>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 Bush Fires Act 1954 for the zone in which the clearing is to take place; and</p> <p>(b) done in such a way as to minimise long term damage to the environmental values of the vegetation.</p>	<p>This exemption allows for fire hazard reduction burning outside of the prohibited or restricted periods.</p> <p>“Fire 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 vegetation.</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 section 3 of the EP Act and means a beneficial use; or an ecosystem health condition. Both beneficial use and ecosystem health condition are also defined in section 3.</p> <p>Whilst having regard to safety issues, care should be taken not to carry out fire hazard reduction burning so frequently that it will reduce or prevent the ability of the vegetation to recover. Care should also be taken, for example, to prevent burning from spreading to a neighbouring property. DER has prepared a guideline to assist in understanding requirements to prevent long term damage to vegetation which is available at DER’s website (http://www.der.wa.gov.au).</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 4</p> <p>Clearing in accordance with a code of practice</p> <p>Clearing must be done by or with the prior authority of:</p> <p>A person to whom the code applies.</p>	<p>Clearing in accordance with a code of practice issued by the CEO under section 122A of the Act.</p>	<p>In its current form, this item does not provide for any exemptions as it does not adopt a code of practice made under section 122A. That is because Item 4 refers to all codes of practice made under section 122A, rather than a specific code or codes. The power of the Governor to make regulations under section 123 to “adopt...either specifically or by reference, any...codes” is confined to codes that are capable of being specifically identified in the regulation.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 5</p> <p>Clearing for firewood</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The owner or occupier.</p>	<p>Clearing to provide firewood use by the owner or occupier of the property on which the vegetation is located for domestic heating or cooking, 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 firewood to the extent to which firewood 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 five hectares.</p>	<p>This exemption allows the owner or occupier of the land to clear native vegetation for firewood for domestic use only.</p> <p>Vegetation cleared under this exemption cannot be sold but may be given away. Advice should be obtained from the Department of Parks and Wildlife (Manager, Species and Communities Branch) on what “sell” means, as it may include such things as raffling or bartering.</p> <p>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 from 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 firewood from vegetation on the property, while placing some reasonable limits on those practices.</p> <p>“Property” means 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.</p> <p>Under this item you should note that clearing for firewood, combined with other exempt clearing activities on the property, may not exceed five hectares in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing must not add up to more than five hectares 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 (Item 10) • 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>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 6</p> <p>Clearing to provide fencing and farm materials</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The owner or occupier.</p>	<p>Clearing to provide material for use by the owner or occupier of the property 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> <ul style="list-style-type: none"> (a) does not kill any live vegetation and does not prevent regrowth of the vegetation; (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 (c) does not, together with all other limited clearing on the property in the financial year in which the clearing takes place, exceed five hectares. 	<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 for the owner or occupier's personal use on the land in question. Vegetation cleared under this exemption cannot 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>"Property" means 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.</p> <p>Under this item you should note that clearing for fences and farm materials, combined with other exempt clearing activities on the property, must not exceed five hectares in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing must not add up to more than five hectares 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 (Item 10) 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>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 7</p> <p>Clearing for woodwork</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The owner or occupier.</p>	<p>Clearing to provide timber for use by the owner or occupier of the property 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 five hectares.</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 Wildlife Conservation Act 1950, vegetation cleared under this exemption cannot be sold but may be given away. Advice should be obtained from the Department of Parks and Wildlife (Manager, Species and Communities Branch) on what “sell” means, as it may include such things as raffling or bartering.</p> <p>Timber for woodwork must first be sourced from clearing 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 woodwork from vegetation on the property, while placing some reasonable limits on those practices.</p> <p>“Property” means 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.</p> <p>Under this item you should note that clearing for woodwork, combined with other exempt clearing activities on the property, must not exceed five hectares in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing must not add up to more than five hectares 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 (Item 10) • 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>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 8</p> <p>Clearing for cultural purposes of an Aboriginal person</p> <p>Clearing must be done by:</p> <p>The Aboriginal person.</p>	<p>Clearing for the cultural or spiritual, but not commercial, purposes of an Aboriginal person on land to which the person has a cultural or spiritual connection and a right of access.</p>	<p>This exemption allows clearing of native vegetation for traditional purposes by an Aboriginal person, provided that the Aboriginal person 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 identifies.</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</p> <p>Clearing by licensed surveyors</p> <p>Clearing must be done by:</p> <p>The authorised land officer or licensed surveyor.</p>	<p>Clearing by –</p> <p>(a) an authorised land officer or surveyor (as defined in the Standard Survey Marks Act 1924) in the exercise of powers under that Act; or</p> <p>(b) a licensed surveyor (as defined in the Licensed Surveyors Act 1909) 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 Standard Survey Marks Act 1924 or Licensed Surveyors Act 1909. 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>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 10</p> <p>Clearing along a fence line - alienated land</p> <p>Clearing must be done by or with the prior authority of:</p> <p>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 five hectares.</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>“Fence” means a structure that is permanently fixed to the ground for controlling movement of persons and/or animals.</p> <p>“Property” means 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.</p> <p>Under this item you should note that clearing along a fence line, combined with other exempt clearing activities on the property, must not exceed five hectares in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing must not add up to more than five hectares 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 (Item 10) • 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</p> <p>Clearing along a fence line - Crown land</p> <p>Clearing must be done by or with the prior authority of:</p> <p>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> <ol style="list-style-type: none"> (a) between alienated land and Crown land - if the clearing is no more than 1.5 metres from the fence line; or (b) between Crown land and Crown land - if the clearing is no more than 5 metres from the fence line on one side and no more than 1.5 metres from the fence line on the other side. 	<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> <ol style="list-style-type: none"> (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 (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>“Fence” means a structure that is permanently fixed to the ground for controlling movement of persons and/or animals.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 12</p> <p>Clearing for vehicular tracks</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The owner of the property on which the clearing is to take place.</p>	<p>Clearing to construct 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 five hectares, if –</p> <p>(a) the clearing for the track is no wider than necessary;</p> <p>(b) there is at least 100 metres 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 100 metres 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 riparian vegetation 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>“Riparian vegetation” means the distinctive vegetation associated with a wetland or watercourse.</p> <p>“Property” means 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.</p> <p>Under this item you should note that clearing for a vehicle track, combined with other exempt clearing activities on the property, must not exceed five hectares in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing must not add up to more than five hectares 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 (Item 10) • 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>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 13</p> <p>Clearing for walking tracks</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The owner of the property on which the clearing is to take place.</p>	<p>Clearing to construct 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 five hectares, 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 of walking tracks for use by pedestrians.</p> <p>“Property” means 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.</p> <p>Under this item you should note that clearing for a walking track, combined with other exempt clearing activities on the property, must not exceed five hectares in a financial year.</p> <p>This means that if you clear for any of the following purposes, the clearing must not add up to more than five hectares 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 (Item 10) • 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</p> <p>Clearing to maintain existing cleared areas for pasture, cultivation or forestry</p> <p>Clearing must be done by or with the prior authority of:</p> <p>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 20 years prior to the clearing if –</p> <p>(a) the land has been used as pasture or for cultivation or forestry within those 20 years; and</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 20 years.</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 20 years. For the exemption to apply, the following requirements must all be met:</p> <ol style="list-style-type: none"> 1. The land must have been lawfully cleared within the 20 years prior to clearing. 2. The land must have been used as pasture or for cultivation or forestry within those 20 years. 3. 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 20 years. It does not allow for a greater area of clearing, or for more intensive clearing. <p>This exemption does not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 15</p> <p>Clearing to maintain existing cleared areas around infrastructure etc.</p> <p>Clearing must be done by or with the authority of:</p> <p>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> <ul style="list-style-type: none"> (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, <p>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> <ul style="list-style-type: none"> (a) around a building or structure for the use of the building or structure – 20 metres from the building or structure; (b) for a fire risk reduction area for a building – 20 metres from the building; (c) to maintain an area along a fence line to provide access to construct or maintain the fence – 5 metres from the fence line; (d) to maintain a vehicular or walking track – 5 metres wide. 	<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 10 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 10 years previously, 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>“Building” means a roofed building or other roofed structure that is permanently fixed to the ground, and includes a transportable building that is:</p> <ul style="list-style-type: none"> (a) connected to a sewerage system or septic tank; or (b) intended to be used as a permanent building. <p>“Fence” means a structure that is permanently fixed to the ground for controlling movement of persons and/or animals.</p> <p>“Fire risk reduction area”, in relation to a building, means a low fuel area (building protection zone) designed to minimise the likelihood of flames contacting the building.</p> <p><i>Note: this exemption only applies if the original clearing was lawful – in other words it will not authorise the maintenance of areas that were cleared unlawfully.</i></p> <p>This exemption does not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 16</p> <p>Clearing under the Rights in Water and Irrigation Act 1914</p> <p>Clearing must be done by or with the prior authority of:</p> <p>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 Rights in Water and Irrigation Act 1914.</p>	<p>A clearing permit is not required where approvals have been granted under the Rights in Water and Irrigation Act 1914 to carry out works to take water or to interfere with the bed and banks of a watercourse and clearing is conducted in accordance with the approval.</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 Rights in Water and Irrigation Act 1914.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 17</p>		<p>This exemption has now expired.</p>
<p>Regulation 5, Item 18</p> <p>Clearing under the Swan River Trust Act 1988</p> <p>Clearing must be done by or with the prior authority of:</p> <p>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 Swan River Trust Act 1988; or</p> <p>(b) as described in regulation 6(2) of the Swan River Trust Regulations 1989.</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 Swan River Trust Act 1988; or • the person carrying out the clearing described in regulation 6(2) of the Swan River Trust Regulations 1989. <p>This exemption ensures that multiple approvals are not required from the Department of Environment Regulation in respect to approvals issued under the Swan River Trust Act 1988.</p> <p>Impacts on native vegetation are considered as part of the application assessment under the Swan River Trust Act 1988.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 19</p> <p>Clearing of isolated trees</p> <p>Clearing must be done with the prior authority of:</p> <p>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 metres 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 five hectares.</p>	<p>This exemption allows for the removal of single trees that are more than 50 metres from any other native vegetation.</p> <p>“Property” means 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.</p> <p>Under this item you should note that clearing an isolated tree, combined with other exempt clearing activities on the property, must not exceed five hectares in a financial year. The area of a tree is calculated by the using the drip line of the tree. For the purposes of this exemption, this is taken to include all trees that are more than 50 metres away from any other native vegetation.</p> <p>This means that if you clear for any of the following purposes, the clearing must not add up to more than five hectares 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 (Item 10) • 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</p> <p>Clearing resulting from low impact or other mineral or petroleum activities</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The person granted the authority to carry out the activity.</p>	<p>Clearing that is, or is the result of carrying out, a low impact or other mineral or petroleum activity described in Schedule 1 if the activity is carried out –</p> <ol style="list-style-type: none"> (a) in accordance with Schedule 1; and (b) in an area of the State other than a non-permitted area specified in Schedule 1. 	<p>This exemption allows clearing for low impact or other mineral or petroleum activities provided they occur outside of those non-permitted areas specified 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 of Mines and Petroleum. Examples include some clearing for temporary tracks, groundwater drilling, clearing for camp sites, anchoring vessels and removing marine growth from certain structures. See Schedule 1 to determine whether or not this exemption applies to you.</p> <p>There is a requirement that all cleared areas are progressively 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 Mining Act 1978 and the various Petroleum Acts in an authority area.</p> <p>The term “authority area” is defined in Schedule 1.</p> <p>Non-permitted areas for the purpose of this exemption are also defined in Schedule 1; DER’s map viewer http://www.der.wa.gov.au/nvp assists in locating these areas.</p> <p>These exemptions do not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 21</p> <p>Clearing for a temporary bypass road</p> <p>Clearing must be done by or with the authority of:</p> <p>The Commissioner of Main Roads, the Public Transport Authority, the local government, the person or the 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 (whether public or private) 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.</p> <p>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 21A</p> <p>Clearing for a crossover</p> <p>Clearing must be done by or with the authority of:</p> <p>The person with the authority to construct the crossover.</p>	<p>Clearing that is the result of constructing a crossover from a road to a property adjacent to the road, and any associated sight line areas, if the construction is within the scope of the authority to construct the crossover.</p>	<p>This exemption allows for the creation of a crossover between a road and a property, to enable access to that property through the road reserve.</p> <p>“Property” means 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.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 22 Clearing in existing transport corridors 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 the 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; (b) to the extent specified for that area or purpose in Schedule 2; and (c) in accordance with Schedule 2.</p>	<p>This exemption allows for maintenance of road and railway verges in accordance with Schedule 2 of the regulations. 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>While this exemption does not apply in an environmentally sensitive area, an area that would otherwise be an environmentally sensitive area is not an environmentally sensitive area to the extent it is in a maintenance area of a road or railway. A maintenance area is an area that has been lawfully cleared. You should note that the taking of flora declared as rare under the Wildlife Conservation Act 1950 still requires consent, even if the flora are not within an environmentally sensitive area. For an official version of Schedule 2, please refer to the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.</p>
<p>Regulation 5, Item 23</p>		<p>This exemption was transitional and has now expired.</p>
<p>Regulation 5, Item 24 Clearing under a Petroleum Act 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 Petroleum and Geothermal Energy Resources Act 1967, the Petroleum Pipelines Act 1969, or the Petroleum (Submerged Lands) Act 1982.</p>	<p>This exemption allows clearing for exploration approved under various Petroleum Acts. This exemption does not apply in an environmentally sensitive area.</p>

Item no.	Wording of exemption	Comment / explanation
<p>Regulation 5, Item 25 Clearing under the Mining Act 1978</p> <p>Clearing must be done by or with the prior authority of:</p> <p>The person granted the authority to carry out the prospecting or exploration.</p>	<p>Clearing that is the result of carrying out prospecting or exploration under an authority granted under the Mining Act 1978.</p>	<p>This exemption allows clearing for prospecting or exploration activities approved under the Mining Act 1978.</p> <p>Pre-1899 minerals to owner Crown grants refer to freehold areas of land principally in the south-west of the state. The Mining Act 1978 does not apply to this land and therefore this exemption will not apply. One example of this land is Hampton Locations.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Regulation 5, Item 26</p>		<p>This exemption was transitional and has now expired.</p>

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