

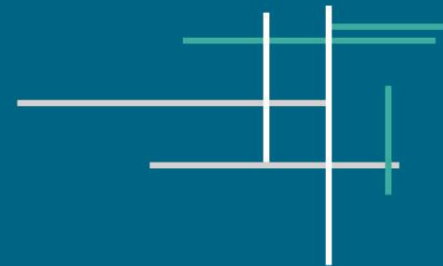


Government of Western Australia  
Department of Water and Environmental Regulation

# Clearing of Native Vegetation *Environmental Protection Act 1986*

## Native Vegetation Regulation Branch

### WALGA – 29 September 2022





# Legislation

*Environmental Protection  
Act 1986 - Part V, Division 2*

*Environmental Protection  
(Clearing of Native Vegetation)  
Regulations 2004 (Clearing  
Regulations)*

Are you “clearing” “native vegetation”?

Option 1: Exemption

Option 2: Referral  
Permit Not  
Required

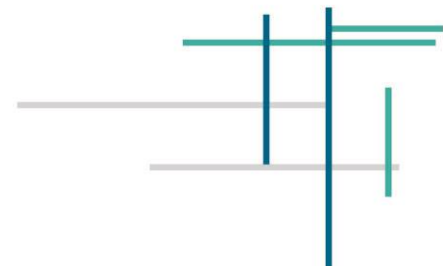
Option 3: Permit



## Definition - Clearing

‘Clearing’ means causing substantial damage to native vegetation, including through:

- the killing or removing of native vegetation;
- the severing or ringbarking of trunks or stems;
- the draining or flooding of land;
- the burning of vegetation;
- the grazing of stock; or
- any other activity that kills or damages native vegetation.

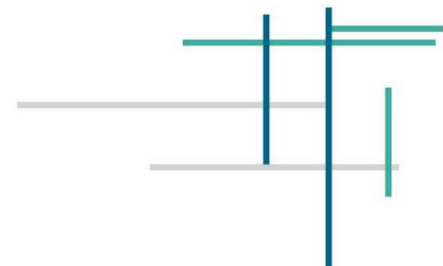




## Definition – Native vegetation

‘Native vegetation’ means all types of indigenous vegetation, including:

- those found in aquatic and marine environments;
- dead vegetation (unless declared by regulation to be excluded); and
- some types of vegetation that were intentionally sown, planted or propagated.



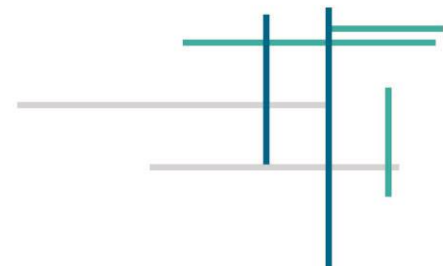


# Option 1 - Exemptions

Exempt clearing does not require a clearing permit.

- Schedule 6 *Environmental Protection Act 1986*
- Clearing prescribed in Regulation 5 *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*

Exemptions under Regulations do not apply in environmentally sensitive areas declared under section 51B of the EP Act.







## Option 2 - Referral

- Very low impact clearing
- Satisfies all four criteria specified under 51DA of the EP Act
  - Criterion 1: The area proposed to be cleared is small relative to the total remaining vegetation
  - Criterion 2: There are no known or likely significant environmental values within the area
  - Criterion 3: The state of scientific knowledge of native vegetation within the region is adequate
  - Criterion 4: Conditions will not be required to manage environmental impacts





Government of **Western Australia**  
Department of **Water and Environmental Regulation**

---


## Guideline

### Native vegetation clearing referrals

Native vegetation clearing activities regulated under the:

- *Environmental Protection Act 1986*
- Environmental Protection (Clearing of Native Vegetation) Regulations 2004

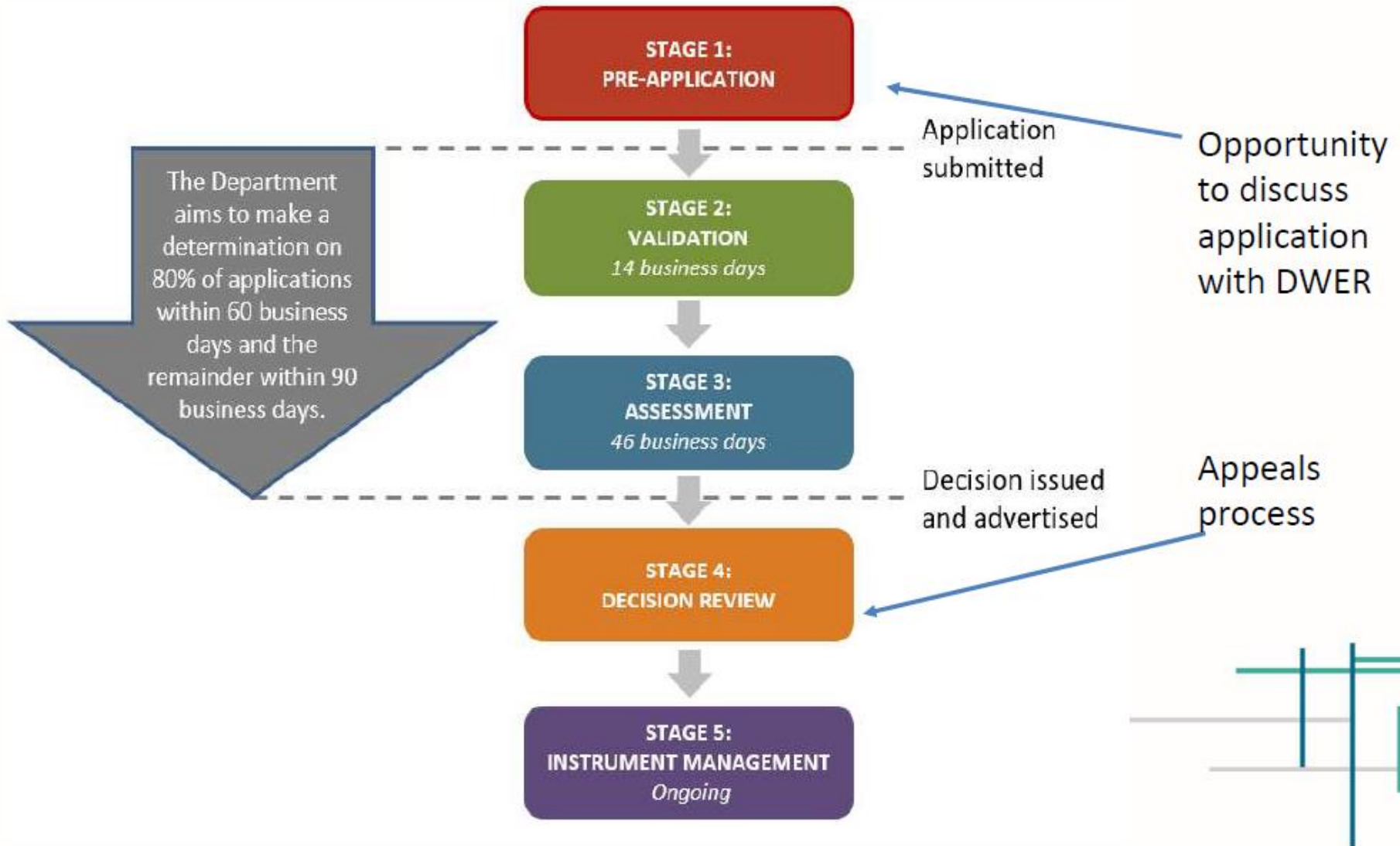
October 2021



Download: [Guideline: Native vegetation clearing referrals](#)



# Option 3 - Clearing Permit



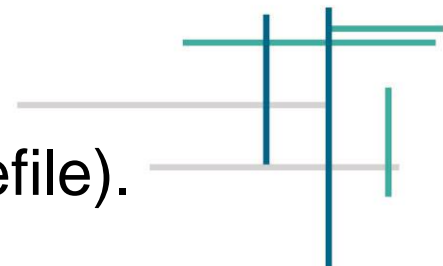




## Clearing Permit – Application tips

Under section 51E of the EP Act an application must be submitted with:

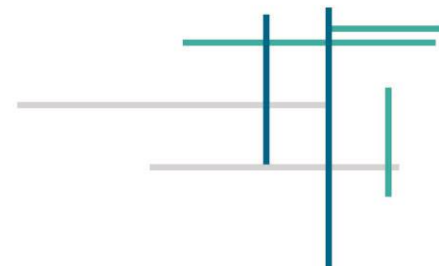
- A completed application form.
- The signature of a duly authorised officer:
  - for local governments this is the Chief Executive Officer or their Delegate.
- Approval from the land owner:
  - Main Roads WA, Department of Biodiversity, Conservation and Attractions
- The correct fee.
- Clearing map of area to be cleared (or shapefile).





## Clearing permit - Common issues

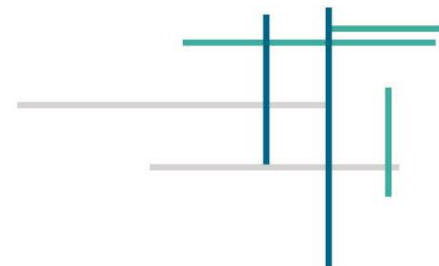
- Submitting applications close to funding expiry deadlines
- Applications completed incorrectly or incomplete
- Incorrect fees paid
- Insufficient biological site information provided (flora/fauna surveys, photographs)
- Biological survey timing requirements (spring surveys for conservation listed flora)
- Avoidance or minimisation measures not described, sometimes not considered
- No offset considerations





# Clearing permits - improved timelines

- Engage with DWER early to discuss potential requirements
- Familiarise yourself with current DWER guidance
- If unsure of the application process (permit types, requirements), call DWER.
- Provide as much information on the site as you can
- Detail road design measures undertaken to avoid/minimise impacts (e.g. clearing/widening on one side of the road only)
- Consider available offset options where impacts are unavoidable
- Consider future projects – strategic applications



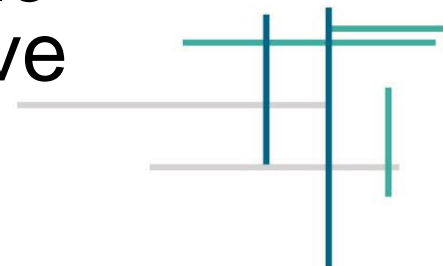


## Clearing permit - Strategic

Different types of strategic permits can be designed to suit the specific requirements of LGAs. For example:

- A five-year plan
- Gravel pits
- Typha

If your LGA is interested in a Strategic Purpose Permit, please contact Native Vegetation Regulation.



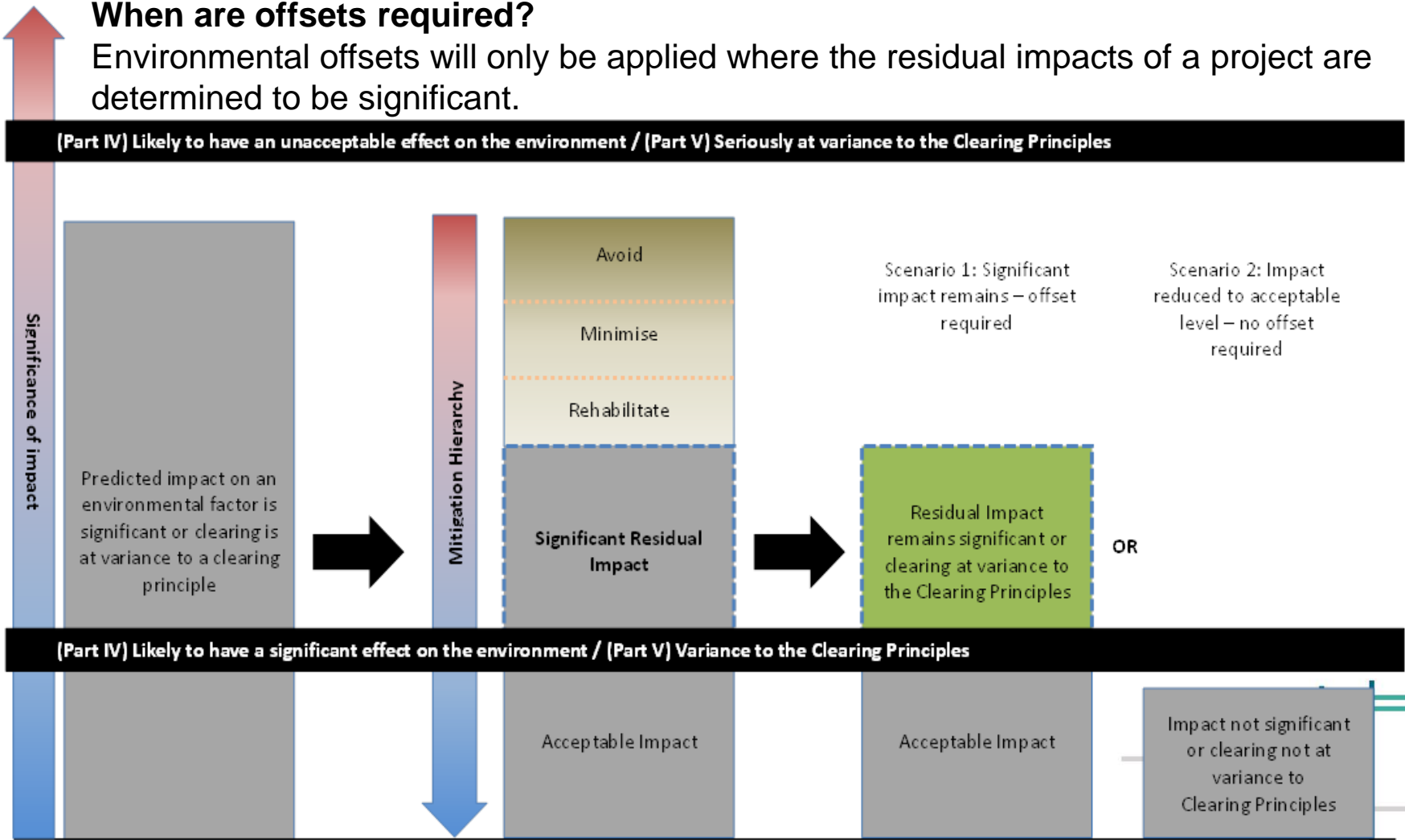


# Clearing permit - Offsets

## When are offsets required?

Environmental offsets will only be applied where the residual impacts of a project are determined to be significant.

**(Part IV) Likely to have an unacceptable effect on the environment / (Part V) Seriously at variance to the Clearing Principles**





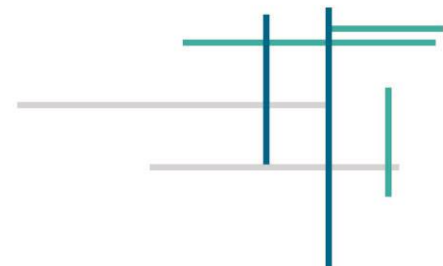
# Environmental offsets

Most offsets in WA are imposed as conditions of a clearing permit where proposed clearing is identified as being 'at variance' with one or more of the clearing principles relating to biodiversity.

## **Offsets include:**

Establish and maintain vegetation on land (other than that being cleared under the permit) to offset the loss of the cleared vegetation, or make monetary contributions to a fund maintained for this purpose.

Give a conservation covenant or other binding undertaking to establish and maintain vegetation.





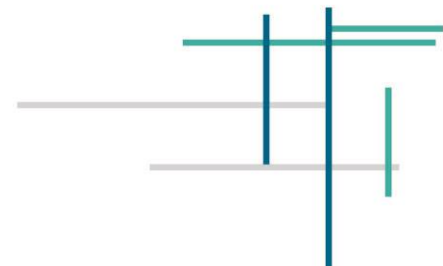
Government of **Western Australia**  
Department of **Water and Environmental Regulation**

**Thank you for your attention**

**If you have any questions, you can  
contact NVR**

**[info@dwer.wa.gov.au](mailto:info@dwer.wa.gov.au)**

**6364 7098**





# Post presentation addendum

\*Please note that the following slides were added based on discussions during the Field Day and were not in the original presentation provided by DWER during the Field Day

## EP Act (Regulations) - [Environmental Protection \(Clearing of Native Vegetation\) Regulations 2004 - \[02-f0-01\].pdf \(legislation.wa.gov.au\)](#)

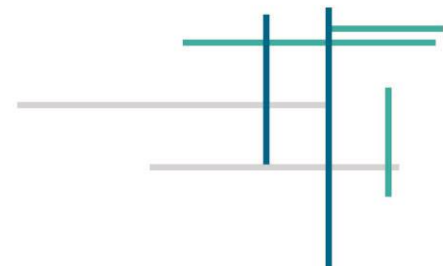
- Schedule 2 (Page 34) relates to LGA maintenance in existing transport corridors
- Clause 1 – Table refers to the ‘*maintenance and protection of transport corridor infrastructure*’ (defined in Terms used under Schedule 2) and specifies extent of clearing as ‘*to the extent necessary*’
- Clause 2 – (the 10 years rule) is with specific reference to those items the Table under Clause 1 which reference ‘*clearing to the extent previously cleared for the area*’ (e.g. crossover or sight of line)
- Therefore – Clause 2 (the 10 years rule) does not relate to the item listed in the table as ‘*maintenance and protection of transport corridor infrastructure*’ as this item is to the extent necessary **not** to the extent previously cleared.

Note\* Schedule 2 defines ‘*transport corridor infrastructure*’ as “in relation to a stretch of road or railway, includes barriers, signs, guideposts, drains, levies, embankments, gutters, bridges, overpasses and other similar structures or works”.





# Exemptions that may apply to clearing within road reserves





# Exemptions (Clearing Regulations)

Exemptions that may apply to local governments

Regulation 5, [Item 2](#)

‘Clearing resulting from accidents or to reduce danger’

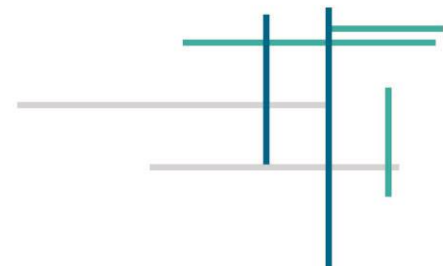
Regulation 5, [Item 21](#)

‘Clearing for a temporary bypass road’

Regulation 5, [Item 21A](#)

‘Clearing for a crossover’

These exemptions do not apply in an environmentally sensitive areas.





# Exemptions (Clearing Regulations)

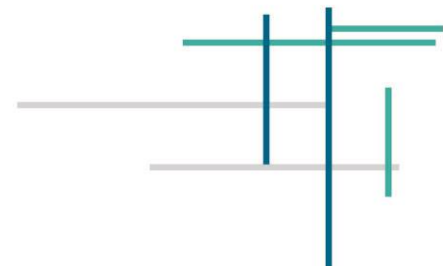
Regulation 5, [Item 22](#) (and Schedule 2)  
'Clearing in existing transport corridors'

Clearing in relation to a stretch of a road or railway or railway if the clearing is carried out -

- (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.

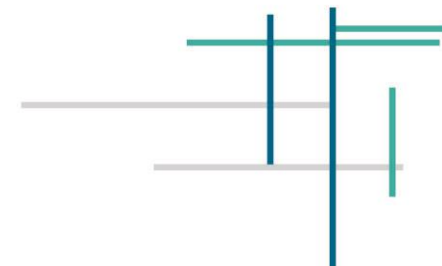
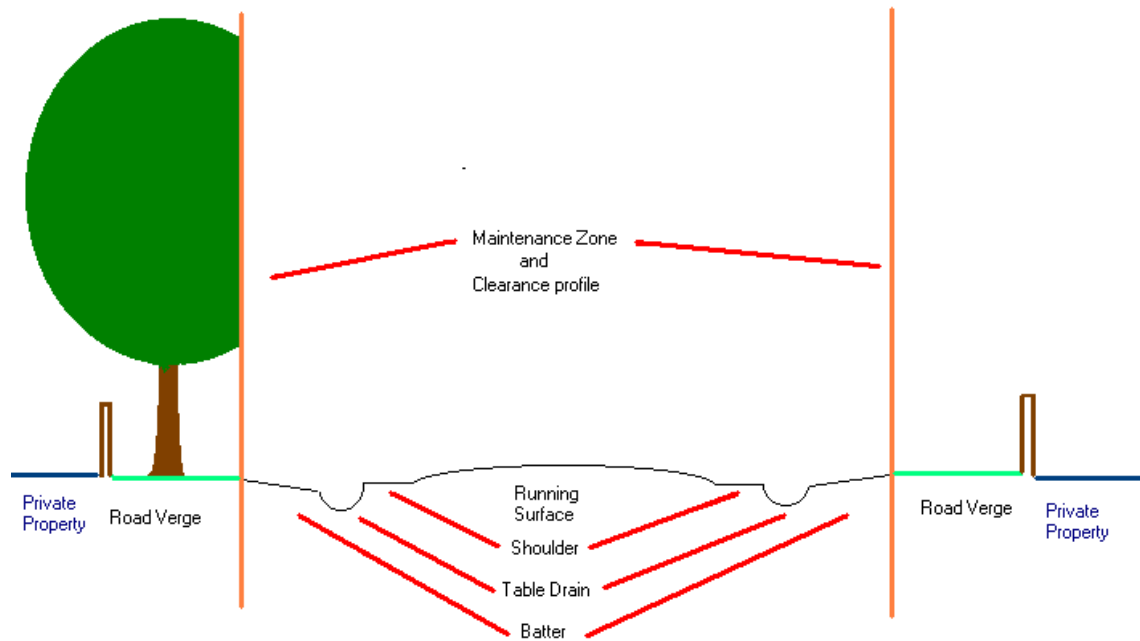
This exemption does not apply in an environmentally sensitive area.

**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.**



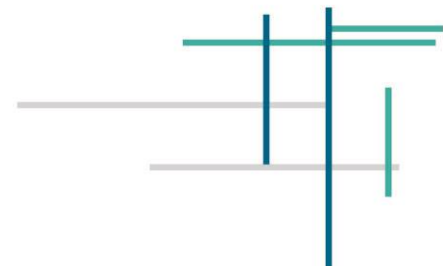
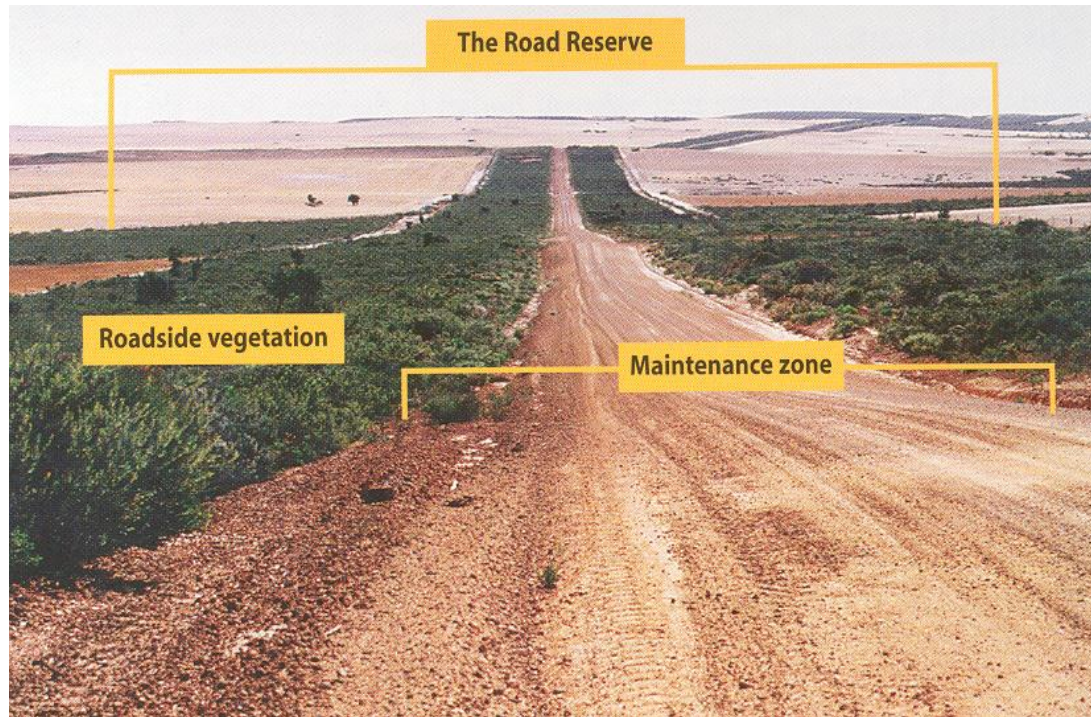


# Exemptions (Clearing Regulations)





# Exemptions (Clearing Regulations)





Government of **Western Australia**  
Department of **Water and Environmental Regulation**

# Presenter

**Caron Robertson**

**A/ Manager**

**Native Vegetation Regulation**

**[caron.robertson@dwer.wa.gov.au](mailto:caron.robertson@dwer.wa.gov.au)**

**6364 7097**

