Western Australia

Environmental Protection Act 1986

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

As at 28 May 2026 Official Version
[PCO 02-k0-00] Published on www.legislation.wa.gov.au

Western Australia

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

Contents

Part 1 — Preliminary

1. Citation 1
2. Commencement 1
3. Terms used 1

Part 2 — General matters

4. Intentionally sown, planted or propagated vegetation (s. 51A) 4
5. Prescribed clearing (s. 51C) 5
7. Fees 20
8. Public records of particulars to be kept by CEO (s. 51Q(a)) 23
8A. Public records of other information and documents to be kept by CEO (s. 51Q(b)) 25
9. Expiry of certain provisions 26

Part 3 — Publication and confidentiality

10. Terms used 27
11. CEO may keep documentation confidential on request 27
12. CEO must keep certain matters confidential 28
13. CEO may keep certain matters confidential 28

Schedule 1 — Low impact or other mineral, petroleum, geothermal or greenhouse gas activities

1. Terms used 31
2. Low impact mineral, petroleum, geothermal and greenhouse gas activities 31
3. How the activity is to be carried out 33
4. Non-permitted areas 34

Schedule 2 — Clearing for maintenance in existing transport corridors

1. Terms used 36
2. Extent of clearing for an area or purpose in relation to a road or railway 36
3. How the clearing is to be carried out 38

Schedule 3 — Infrastructure maintenance activities

1. Infrastructure maintenance activities 39
2. How the activity is to be carried out 39

Notes

Compilation table 40
Other notes 41

Defined terms

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

Part 1 — Preliminary

[Heading inserted: SL 2021/178 r. 4.]

1. Citation

These regulations may be cited as the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

2. Commencement

These regulations come into operation on the day on which Part 9 of the *Environmental Protection Amendment Act 2003* comes into operation.

3. Terms used

In these regulations, unless the contrary intention appears —

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;

alienated land has the meaning given to that term in section 3(1) of the *Land Administration Act 1997*;

bioregion means a bioregion of Western Australia as defined in "Revision of the Interim Biogeographic Regionalisation of Australia (IBRA) and the Development of Version 5.1 — Summary Report" (2000) published by the Commonwealth Department of the Environment and Heritage, Canberra;

building means a roofed building or other roofed structure that is permanently fixed to the ground, and includes a transportable building that is —

(a) connected to a sewerage system or septic tank; or

(b) intended to be used as a permanent building;

Crown land has the meaning given to that term in section 3(1) of the *Land Administration Act 1997*;

environmentally sensitive area means an area declared in regulation 6 to be an environmentally sensitive area;

fence means a structure, that is permanently fixed to the ground, for controlling movement of persons or animals;

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 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;

intensive land-use zone means the intensive land-use zone as defined in Shepherd, D.P., Beeston, G.R. and Hopkins, A.J.M. "Native Vegetation in Western Australia. Resource Management Technical Report 249" (2001) published by the Department of Agriculture, Perth;

limited clearing means clearing described in regulation 5(1) item 1, 5, 6, 7, 10, 12, 13 or 19;

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;

riparian vegetation means the distinctive vegetation associated with a wetland or watercourse;

sight line area means an area between the edge of a stretch of road or railway and a line of sight necessary for the safe use of the stretch of road or railway;

utility means —

(a) AlintaGas Networks Pty. Ltd., ACN 089 531 975;

(b) the Commissioner of Main Roads appointed under the *Main Roads Act 1930*;

(c) Telstra Corporation Limited, ACN 051 775 556;

(d) the Water Corporation established by section 4 of the *Water Corporation Act 1995*;

(e) the Electricity Networks Corporation established by section 4(1)(b) of the *Electricity Corporations Act 2005*;

(ea) the Regional Power Corporation established by section 4(1)(d) of the *Electricity Corporations Act 2005*; or

(f) the Public Transport Authority established by section 5 of the *Public Transport Authority Act 2003*;

watercourse has the meaning given to that term in Schedule 5 to the Act;

wetland has the meaning given to that term in Schedule 5 to the Act.

[Regulation 3 amended: Gazette 31 Mar 2006 p. 1349; 7 Jul 2006 p. 2499; 3 May 2019 p. 1307.]

Part 2 — General matters

[Heading inserted: SL 2021/178 r. 5.]

4. Intentionally sown, planted or propagated vegetation (s. 51A)

(1) The definition of ***native vegetation*** in section 51A of the Act includes indigenous aquatic or terrestrial vegetation that was intentionally planted if —

(a) the planting 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) one of the following is in effect in relation to the vegetation —

(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 (W.A.) Act 1964*;

(iii) a restrictive covenant to conserve under section 129BA of the *Transfer of Land Act 1893*;

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

(2) In this regulation —

biodiversity conservation includes conservation of species diversity, genetic diversity or ecosystem diversity;

land conservation includes management of salinity, erosion, soil acidity or waterlogging;

plant includes to sow and to propagate.

5. Prescribed clearing (s. 51C)

(1) Clearing is of a kind prescribed for the purposes of section 51C(c) if —

(a) it is described in an item in the Table to this subregulation;

(b) it is by, or with the prior authority of, a person listed in the item in which the clearing is described; and

(c) it is done in such a way as to limit damage to neighbouring native vegetation.

Table

Item	Description of clearing	Person
1	**Clearing to construct a building**	
	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 5 ha, if — (a) the clearing is to the extent necessary; and (b) the vegetation is not riparian vegetation.	The owner of the property on which the clearing is to take place.

Item	Description of clearing	Person
2	**Clearing resulting from accidents or to reduce danger** Clearing — (a) for the purposes of preventing imminent danger to human life or health or irreversible damage to a significant portion of the environment; or (b) as a result of an accident caused otherwise than by the negligence of the person clearing or the person who authorised the clearing.	The owner of the land on which the clearing is to take place. 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.
3	**Clearing for fire hazard reduction** Clearing that is fire hazard reduction burning if the clearing is — (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 (b) done in such a way as to minimise long term damage to the environmental values of the vegetation.	The owner of the land on which the clearing is to take place.

Item	Description of clearing	Person
4	**Clearing in accordance with a code of practice**	
	Clearing in accordance with a code of practice issued by the CEO under section 122A of the Act.	A person to whom the code applies.
5	**Clearing for firewood**	
	Clearing to provide firewood for use by the owner or occupier of the property on which the vegetation is located for domestic heating or cooking, being clearing which —	The owner or occupier.
	(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 5 ha.	
6	**Clearing to provide fencing and farm materials**	
	Clearing to provide material for use by the owner or occupier of the property on which the vegetation is	The owner or occupier.

Item	Description of clearing	Person
	located for constructing and maintaining fences, buildings and other structures on land in the possession of the owner or occupier, being clearing which — (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 5 ha.	
7	**Clearing for woodwork** 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 — (a) does not kill any live vegetation and does not prevent regrowth of the vegetation;	The owner or occupier.

Item	Description of clearing	Person
	(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 (c) does not, together with all other limited clearing on the property in the financial year in which the clearing takes place, exceed 5 ha.	
8	**Clearing for cultural purposes of Aboriginal persons** 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.	The Aboriginal person.
9	**Clearing by licensed surveyors** Clearing by — (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 (b) a licensed surveyor (as defined in the *Licensed Surveyors Act 1909*) in the course of making an authorised survey.	The authorised land officer or licensed surveyor.

Item	Description of clearing	Person
10	**Clearing along a fence line – alienated land**	
	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 5 ha.	The owner of the property on which the clearing is to take place.
11	**Clearing along a fence line — Crown land**	
	Clearing of Crown land along a fence line to provide access to construct or maintain a fence — (a) between alienated land and Crown land — if the clearing is no more than 1.5 m from the fence line; or (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.	The owner of the land on which the clearing is to take place.

Item	Description of clearing	Person
12	**Clearing for vehicular tracks**	
	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 5 ha, if — (a) the clearing for the track is no wider than necessary; (b) there is at least 100 m between that track and any other cleared land that could be used for the purpose for which the particular track is intended; (c) the vegetation is not in a road reserve; and (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).	The owner of the property on which the clearing is to take place.

Item	Description of clearing	Person
13	**Clearing for walking tracks**	
	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 5 ha, if — (a) the clearing for the track is no wider than necessary; and (b) the track is used by pedestrians or there is a reasonable expectation that it will be used by pedestrians.	The owner of the property on which the clearing is to take place.
14	**Clearing to maintain existing cleared areas for pasture, cultivation or forestry**	
	Clearing of land that was lawfully cleared within the 20 years prior to the clearing if — (a) the land has been used as pasture or for cultivation or forestry within those 20 years; and (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.	The owner or occupier of the land on which the clearing is to take place.

Item	Description of clearing	Person
15	**Clearing to maintain existing cleared areas around infrastructure etc.**	
	Clearing of land that was lawfully cleared within the 10 years prior to the clearing for one of the following purposes — (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; (d) to maintain a vehicular or walking track, to the extent of the prior clearing.	The owner or occupier of the land on which the clearing is to take place.
	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 — (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;	

Item	Description of clearing	Person
	(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.	
16	**Clearing under the *Rights in Water and Irrigation Act 1914***	
	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*.	The person to whom the permit is granted or other approval is given.
17	**Clearing under the *Country Areas Water Supply Act 1947***	
	Clearing in accordance with a clearing licence granted under section 12C of the *Country Areas Water Supply Act 1947* if —	The person to whom the licence is granted.
	(a) the licence is granted before Part 9 of the *Environmental Protection Amendment Act 2003* comes into operation; and	
	(b) the clearing takes place within 2 years after Part 9 of the *Environmental Protection Amendment Act 2003* comes into operation.	

Item	Description of clearing	Person
18	**Clearing under the *Swan River Trust Act 1988*** [1] Clearing — (a) in accordance with an approval under Part 5 of the *Swan River Trust Act 1988* [1]; or (b) as described in regulation 6(2) of the *Swan River Trust Regulations 1989* [1].	In the case of paragraph (a), the person to whom the approval is granted, in the case of paragraph (b), a person.
19	**Clearing isolated trees** Clearing of a tree on a property that is in an otherwise cleared area on the property and that is more than 50 m from any other native vegetation, 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 5 ha.	The owner of the property on which the tree is located.
20	**Clearing: low impact or other mineral, petroleum, geothermal or greenhouse gas activities** Clearing that is, or is the result of carrying out, a low impact or other mineral, petroleum, geothermal or greenhouse gas activity described in Schedule 1 if the activity is carried out — (a) in accordance with Schedule 1; and	The person granted the authority to carry out the activity.

Item	Description of clearing	Person
	(b) in an area of the State other than a non-permitted area specified in Schedule 1.	
21	**Clearing for a temporary bypass road** 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 unforseen damage to part of that stretch of road.	The Commissioner of Main Roads, the Public Transport Authority, the local government, the person or the entity responsible for the stretch of road.
21A	**Clearing for a crossover** 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.	The person with the authority to construct the crossover.
22	**Clearing for maintenance in existing transport corridors** Clearing in relation to a stretch of road (whether public or private) or railway if the clearing is carried out — (a) in an area or for a purpose specified in Schedule 2; and	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.

Item	Description of clearing	Person
	(b) to the extent specified for that area or purpose in Schedule 2; and (c) in accordance with Schedule 2.	
23	**Clearing resulting from infrastructure maintenance activities** 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 — (a) in the case of an activity referred to in Schedule 3 clause 1(a), (b) or (c) — 12 months after Part 9 of the *Environmental Protection Amendment Act 2003* 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 *Environmental Protection Amendment Act 2003* comes into operation.	The utility or local government responsible for the infrastructure.

Item	Description of clearing	Person
24	**Clearing under a Petroleum Act**	
	Clearing that is the result of carrying out exploration under an authority under the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967*, the *Petroleum and Greenhouse Gas Pipelines Act 1969* or the *Petroleum and Greenhouse Gas Storage (Submerged Lands) Act 1982*.	A person covered by the authority to carry out the exploration.
25	**Clearing under the *Mining Act 1978***	
	Clearing that is the result of carrying out prospecting or exploration under an authority granted under the *Mining Act 1978*.	The person granted the authority to carry out the prospecting or exploration.
26	**Clearing in accordance with a notice of intention under the *Soil and Land Conservation Regulations 1992***	
	Clearing that is the result of carrying out an activity —	The person who gave the notice of intention.
	(a) in respect of which notice of intention was given under regulation 5 or 6 of the *Soil and Land Conservation Regulations 1992* before Part 9 of the *Environmental Protection Amendment Act 2003* comes into operation	

Item	Description of clearing	Person
	and at least 90 days before the activity was commenced;	
	(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 *Environmental Protection Amendment Act 2003* comes into operation;	
	(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	
	(d) in respect of which a soil conservation notice, within the meaning of Part V of the *Soil and Land Conservation Act 1945*, has not been served.	

(2) For the purposes of subclause (1) item 8, the cultural or spiritual purposes of an Aboriginal person and the person's cultural or spiritual connection to particular land is to be 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.

(3) For the purposes of subclause (1) item 19, the area of a tree is the area covered by the drip line of the tree.

[Regulation 5 amended: Gazette 21 Jan 2005 p. 259; 24 Jun 2005 p. 2755-7; 23 Dec 2005 p. 6268; 6 Jan 2006 p. 31; 31 Mar 2006 p. 1165; 7 Jul 2006 p. 2500; 30 Mar 2007 p. 1457; 22 Jun 2007 p. 2845; 10 Jun 2008 p. 2486; 3 Dec 2013 p. 5623-4; SL 2026/75 r. 4.]

*[**6.** Expired at the end of 8 Apr 2005 by operation of the Environmental Protection Amendment Act 2003 s. 110(4)(b).]*

7. Fees

(1) In this regulation —

application area, in relation to an application for an area permit or a purpose permit, means the area that is proposed to be cleared in the application.

(1A) For the purposes of section 51E(1)(c) of the Act, the fee for an application for an area permit is determined as set out in the Table, with —

(a) column A showing the fee for an application where any part of the application area falls within the intensive land-use zone; and

(b) column B showing the fee for any other application.

Table

Item	Application area	Column A Fee	Column B Fee
1.	Not more than 1 ha	$400	$400
2.	More than 1 ha but not more than 5 ha	$600	$600
3.	More than 5 ha but not more than 10 ha	$1 500	$750
4.	More than 10 ha but not more than 50 ha	$2 000	$1 000

Item	Application area	Column A Fee	Column B Fee
5.	More than 50 ha but not more than 100 ha	$3 000	$1 500
6.	More than 100 ha but not more than 500 ha	$4 000	$2 000
7.	More than 500 ha but not more than 1000 ha	$5 000	$2 500
8.	More than 1000 ha	$10 000	$5 000

(1B) For the purposes of section 51E(1)(c) of the Act, the fee for an application for a purpose permit is the sum of —

(a) $2 000; and

(b) the variable component, determined as set out in the Table, with —

(i) column A showing the variable component for an application where any part of the application area falls within the intensive land-use zone; and

(ii) column B showing the variable component for any other application.

Table

Item	Application area	Column A Variable component	Column B Variable component
1.	Not more than 1 ha	$400	$400
2.	More than 1 ha but not more than 5 ha	$600	$600
3.	More than 5 ha but not more than 10 ha	$1 500	$750

Item	Application area	Column A Variable component	Column B Variable component
4.	More than 10 ha but not more than 50 ha	$2 000	$1 000
5.	More than 50 ha but not more than 100 ha	$3 000	$1 500
6.	More than 100 ha but not more than 500 ha	$4 000	$2 000
7.	More than 500 ha but not more than 1000 ha	$5 000	$2 500
8.	More than 1000 ha	$10 000	$5 000

(2) For the purposes of section 51M(1)(b) of the Act the fee for an application to amend a clearing permit or an application to surrender a clearing permit is determined as set out in the Table to this subregulation.

Table

Item	Type of application	Fee
1.	An application to amend an area permit other than to increase the area covered by the permit	$50.00
2.	An application to amend an area permit to increase the area covered by the permit by less than 1 ha	$50.00
3.	An application to amend an area permit to increase the area covered by the permit by between 1 ha and 10 ha	$100.00
4.	An application to amend an area permit to increase the area covered by the permit by more than 10 ha	$200.00

Item	Type of application	Fee
5.	An application to amend a purpose permit	$200.00
6.	An application to surrender a clearing permit	$5.00

(3) For the purposes of section 119(5) of the *Environmental Protection Amendment Act 2003* the fee is $5.00.

(4) The CEO may reduce, waive or refund, in whole or part, a fee referred to in these regulations.

[Regulation 7 amended: 3 May 2019 p. 1308-9.]

8. Public records of particulars to be kept by CEO (s. 51Q(a))

(1) For the purposes of section 51Q(a) of the Act, the particulars are set out in subregulations (2) to (8).

(2) The particulars of applications for clearing permits under section 51E(1) of the Act are as follows —

(a) the name of the applicant;

(b) whether the application is for an area permit or a purpose permit;

(c) a description of the land to which the application relates;

(d) the purpose of the proposed clearing;

(e) in the case of an application for an area permit — the size of the area to be cleared or the number of trees to be cleared;

(f) the period for which the permit is sought.

(3) The particulars of applications for amendments of clearing permits under section 51K(2)(a) of the Act are as follows —

(a) the name of the applicant;

(b) whether the application is for the amendment of an area permit or a purpose permit;

(c) in the case of an application for amendment of an area permit — any change in the size of the area to be cleared or the number of trees to be cleared;

(d) in the case of an application to amend the period during which the permit is in force — the period for which the permit is sought.

(4) The particulars of clearing permits that are in force are as follows —

(a) the name of the permit holder;

(b) whether the permit is an area permit or a purpose permit;

(c) a description of the land to which the permit relates;

(d) the purpose of the clearing;

(e) in the case of an area permit — the size of the area to be cleared or the number of trees to be cleared;

(f) the conditions to which the permit is subject;

(g) the period during which the permit is in force.

(5) The particulars of undertakings given by the CEO under section 51E(9) of the Act are as follows —

(a) the name of the person to whom the undertaking is given;

(b) a description of the land to which the permit that will be granted in accordance with the undertaking relates;

(c) the purpose of the proposed clearing;

(d) the size of the area to be cleared or the number of trees to be cleared under the permit that will be granted in accordance with the undertaking;

(e) the conditions to which the permit that will be granted in accordance with the undertaking is to be subject;

(f) the period for which the permit that will be granted in accordance with the undertaking is to be in force.

(6) The particulars of notifications received under section 51N(1) of the Act of the transfer or passing of the owner's interest in the land are as follows —

(a) the name of the person giving the notification;

(b) the date on which the interest was transferred or passed, or will transfer or pass, to the person giving the notification;

(c) the date on which the notice was received by the CEO.

(7) The particulars of the surrender of clearing permits accepted by the CEO under section 51MA(7)(a) of the Act are as follows —

(a) the name of the person who applied to surrender the permit;

(b) the identification number of the permit;

(c) the date on which the CEO accepted the surrender.

(8) The particulars of clearing permits revoked or suspended by the CEO under section 51L(1) of the Act are as follows —

(a) the name of the permit holder at the time of the revocation or suspension;

(b) the identification number of the permit;

(c) the grounds for the revocation or suspension;

(d) the date on which the permit was revoked or suspended.

[Regulation 8 inserted: SL 2021/178 r. 6.]

8A. Public records of other information and documents to be kept by CEO (s. 51Q(b))

For the purposes of section 51Q(b) of the Act, the CEO must keep a public record of information and documents given to the CEO in response to a written notice given by the CEO under section 51E(1A), 51KA(2) or 51MA(3) of the Act.

[Regulation 8A inserted: SL 2021/178 r. 6.]

9. Expiry of certain provisions

Regulation 6 and the definition of ***environmentally sensitive area*** in regulation 3 cease to have effect, by force of this regulation, on the day on which the first notice published by the Minister under section 51B of the Act comes into operation.

Part 3 — Publication and confidentiality

[Heading inserted: SL 2021/178 r. 7.]

10. Terms used

In this Part each of the following terms has the meaning given in section 122B(1) of the Act —

documentation

publish

submit

[Regulation 10 inserted: SL 2021/178 r. 7.]

11. CEO may keep documentation confidential on request

(1) In this regulation —

clearing referral means a referral of proposed clearing under section 51DA(2) of the Act;

confidential material means either of the following —

(a) trade secrets of a person;

(b) confidential information (other than trade secrets) that has a commercial value to a person that would be, or could reasonably be expected to be, destroyed or diminished if the confidential information were published.

(2) A person may, when submitting documentation to the CEO in relation to a clearing referral or a clearing permit, request in writing that the CEO not publish the whole or part of the documentation (the ***relevant documentation***) because of the confidential nature of the relevant documentation.

(3) If a request is made under subregulation (2) by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)), the CEO must acknowledge receipt of the request in writing.

(4) On receipt of a request under subregulation (2) and, if subregulation (3) applies, after the CEO has acknowledged receipt of the request the CEO —

(a) must, if satisfied that the whole or part of the relevant documentation contains confidential material, refrain from publishing that whole or part; and

(b) may refrain from publishing the whole or part of the relevant documentation if the CEO —

(i) is not satisfied of the matters referred to in paragraph (a); but

(ii) is satisfied that it is desirable to refrain from publishing that whole or part because of the confidential nature of that whole or part.

[Regulation 11 inserted: SL 2021/178 r. 7.]

12. CEO must keep certain matters confidential

(1) The CEO must refrain from publishing any BSB number or bank account number contained in documentation submitted to the CEO in relation to a clearing referral (as defined in regulation 11(1)) or a clearing permit.

(2) Subregulation (1) applies whether or not a request has been made under regulation 11(2).

[Regulation 12 inserted: SL 2021/178 r. 7.]

13. CEO may keep certain matters confidential

(1) In this regulation —

Aboriginal site has the meaning given in the *Aboriginal Heritage Act 1972* section 4;

native species has the meaning given in the *Biodiversity Conservation Act 2016* section 5(1);

priority list means either of the following —

(a) the document titled "Threatened and Priority Flora List", as retitled or amended from time to time, published by the department principally assisting in the administration of the *Biodiversity Conservation Act 2016* (the ***department***) on its website;

(b) the document titled "Threatened and Priority Fauna List", as retitled or amended from time to time, published by the department on its website;

species has the meaning given in the *Biodiversity Conservation Act 2016* section 5(1);

threatened species has the meaning given in the *Biodiversity Conservation Act 2016* section 5(1).

(2) The CEO may at any time refrain from publishing any of the following information if it is confidential (whether or not a request has been made under regulation 11(2)) —

(a) personal information;

(b) the precise location of any of the following —

(i) a threatened species;

(ii) any other species listed, designated or declared as threatened, endangered or vulnerable under or for the purposes of a written law;

(iii) a listed threatened species as defined in the Commonwealth Environment Act section 528;

(iv) a species listed on a priority list;

(v) a breeding area of a species referred to in subparagraphs (i) to (iv);

(c) the precise location of a population of a native species, or a breeding area of a native species, if the CEO considers that the survival of a population of the native species could be threatened by —

(i) publishing that information; or

(ii) the presence or actions of persons if that information were published;

(d) the precise location of an Aboriginal site, if the precise location of that site is identified in documentation provided to the CEO in relation to a clearing referral (as defined in regulation 11(1)) or a clearing permit.

[Regulation 13 inserted: SL 2021/178 r. 7; amended: SL 2023/50 r. 7; SL 2023/170 r. 7.]

Schedule 1 — Low impact or other mineral, petroleum, geothermal or greenhouse gas activities

[r. 5(1) item 20]

[Heading amended: Gazette 24 Jun 2005 p. 2757; 23 Dec 2005 p. 6268; SL 2026/75 r. 5.]

1. Terms used

In this Schedule —

scrape and detect operation means an operation to scrape material from the earth's surface, to stockpile it and to screen it (for example, by using screens or a metal detector) for minerals;

water supply area means —

[(a) deleted]

(b) a catchment area or water reserve constituted under section 9 of the *Country Areas Water Supply Act 1947*;

(c) a catchment area or water reserve constituted under section 13 of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*; or

(d) an Underground Water Pollution Control Area constituted under section 57A of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

[Clause 1 amended: Gazette 23 Dec 2005 p. 6269; 30 Mar 2007 p. 1458; 14 Nov 2013 p. 5037.]

2. Low impact mineral, petroleum, geothermal and greenhouse gas activities

(1) The following activities are low impact mineral, petroleum, geothermal or greenhouse gas activities for the purposes of regulation 5(1) Table item 20, to the extent to which they are carried out under an authority granted under the *Mining Act 1978*, the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967*, the *Petroleum and Greenhouse Gas Pipelines Act 1969* or the *Petroleum and Greenhouse Gas Storage (Submerged Lands) Act 1982* —

(a) activities involving no ground disturbance and little or no vegetation damage;

(b) driving vehicles or other mechanised equipment through vegetation, that is, not along existing tracks;

(c) raised-blade clearing for a temporary access track (of no more than 4 m in width) if there is at least 100 m between that access track and any other access track;

(d) a scrape and detect operation if the total area cleared for the purposes of the operation is less than 2 ha at any 1 time (excluding any area that has been rehabilitated in accordance with the requirements imposed by or under the relevant Act);

(e) clearing for camp sites and storage areas, and similar incidental purposes, necessary for the activities referred to in any of the other paragraphs of this subclause if the total area cleared for those purposes is less than 2 ha at any 1 time (excluding any area that has been rehabilitated in accordance with the requirements imposed by or under the relevant Act);

(f) anchoring vessels to the seabed, removing marine growth from offshore pipelines, platforms and other structures, and carrying out seabed surveys;

(g) anchoring drill rigs to the seabed, positioning drill rigs and drilling if the activity is not carried out within a sanctuary, recreation or special purpose area of a marine park referred to in the *Conservation and Land Management Act 1984* section 13B(9).

(2) An activity authorised by a licence granted, after this subclause comes into operation, under the *Rights in Water and Irrigation Act 1914* section 5C or 26D is a low impact mineral, petroleum, geothermal or greenhouse gas activity for the purposes of regulation 5(1) Table item 20, to the extent to which it is carried out for the purposes of an activity carried out under an authority granted under the *Mining Act 1978*, the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967*, the *Petroleum and Greenhouse Gas Pipelines Act 1969* or the *Petroleum and Greenhouse Gas Storage (Submerged Lands) Act 1982*.

(3) Clearing in an authority area for any purpose, being clearing which does not, together with all other clearing carried out under this subclause in the area in the financial year in which the clearing takes place, exceed 10 ha, is a low impact mineral, petroleum, geothermal

or greenhouse gas activity for the purposes of regulation 5(1) Table item 20, to the extent to which it is carried out under an authority granted under the *Mining Act 1978*, the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967*, the *Petroleum and Greenhouse Gas Pipelines Act 1969* or the *Petroleum and Greenhouse Gas Storage (Submerged Lands) Act 1982*.

(4) In subclause (3) —

authority area means the area in which the holder of 1 of the following authorities may carry out the activity or activities authorised by that authority —

(a) a mining tenement as defined in the *Mining Act 1978* section 8(1);

(b) a permit, drilling reservation, lease, licence, special prospecting authority or access authority, as those terms are defined in the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967* section 5(1);

(c) a licence as defined in the *Petroleum and Greenhouse Gas Pipelines Act 1969* section 4(1);

(d) a permit, lease, licence, pipeline licence, special prospecting authority or access authority, as those terms are defined in the *Petroleum and Greenhouse Gas Storage (Submerged Lands) Act 1982* section 4(1), or a consent of the Minister under section 60 of that Act.

[Clause 2 inserted: SL 2026/75 r. 6.]

3. How the activity is to be carried out

An activity referred to in clause 2 is to be carried out —

(a) so that it does not result in clearing of riparian vegetation and limits or avoids indirect harm to riparian vegetation;

(b) so that soil erosion and other similar land degradation is limited or avoided; and

(c) so that, to the extent practicable, the quality of surface and subterranean water is not affected.

4. Non-permitted areas

(1) An area of the State is a non-permitted area if it is within, or described by, one of the following —

(a) one of the following bioregions or part bioregions —

(i) Avon Wheatbelt;

(ii) Esperance;

(iii) Geraldton Sandplains;

(iv) Jarrah Forest;

(v) Mallee;

(vi) Swan Coastal Plain;

(vii) Warren;

(viii) Yalgoo (to the extent of the intensive land-use zone);

(b) alienated land as defined in section 3(1) of the *Land Administration Act 1997*;

(c) a townsite as defined in section 3(1) of the *Land Administration Act 1997* that is occupied;

(d) a conservation area as defined in Schedule 5 clause 2 to the Act;

(e) Crown land reserved under the *Land Administration Act 1997* the care and control of which is placed with the Water and Rivers Commission under that Act or section 32 of the *Waterways Conservation Act 1976*;

(f) a water supply area;

(g) an area covered by the riparian vegetation of a wetland or watercourse;

(h) the area extending 2 km inland from the high water mark of the coastline of Western Australia;

(i) an environmentally sensitive area;

(j) an area known as a "priority one area" as described in "Wild Rivers of Western Australia" (1999) published by the Water and Rivers Commission, Perth;

(k) an area known as a "Red Book area" as described in —

(i) "Conservation Reserves for Western Australia. Systems 4, 8, 9, 10, 11, 12." (1975);

(ii) "Conservation Reserves for Western Australia. Systems 1, 2, 3, 5." (1976);

(iii) "Conservation Reserves for Western Australia. System 7." (1980); or

(iv) "Conservation Reserves for Western Australia. The Darling System — System 6. Part I: General Principles and Recommendations and Part II: Recommendations for Specific Localities. Report 13." (1983),

published by the Department of Conservation and Environment, Perth and the "Red Book Status Report. On the implementation of Conservation Reserves for WA as recommended by the Environmental Protection Authority. Report 15" (1993) published by the Environmental Protection Authority, Perth.

(2) For the purposes of subclause (1)(h) —

(a) the coastline follows the shores of bays, inlets and other similar bodies of water that are connected to the sea (disregarding any temporary closure from the sea);

(b) the high water mark is that at ordinary spring tides; and

(c) the high water mark of the coastline extends across the mouth of a river or riverine estuary from the last point on the high water mark of one of the banks of the mouth of the river or estuary at which a line extended at 90° to the bank will reach the opposite bank to the other such point on the opposite bank.

[Clause 4 amended: Gazette 23 Dec 2005 p. 6270.]

Schedule 2 — Clearing for maintenance in existing transport corridors

[r. 5(1) item 22]

[Heading amended: Gazette 7 Jul 2006 p. 2500.]

1. Terms used

In this Schedule —

crossover area means the area occupied by a crossover from a road to a property adjacent to the road and any associated sight line areas;

lateral clearance area, in relation to a stretch of road or railway, means the area (if any) parallel to and immediately adjacent to the stretch of road or railway that is ordinarily cleared;

previously cleared has a meaning that is affected by clause 2(2);

public roadside facility includes a camping area, rest area, information bay, road train assembly area or parking area or a footpath or cycle track in the road reserve;

transport corridor infrastructure, 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.

[Clause 1 amended: Gazette 7 Jul 2006 p. 2500-1.]

2. Extent of clearing for an area or purpose in relation to a road or railway

(1) For a stretch of road or railway, the area or purpose and the extent of clearing referred to in item 22 are, subject to subclause (2), specified in the Table to this subclause.

Table

area or purpose	extent of clearing
crossover area	clearing to the extent previously cleared for the area.
lateral clearance area	complete clearing to the width and height previously cleared for that stretch of road or railway.
maintenance and protection of transport corridor infrastructure	clearing to the extent necessary to — (a) maintain the efficacy and safety of the infrastructure; (b) protect the infrastructure (for example, from fire); and (c) provide access to the infrastructure to maintain it.
an area that is a public roadside facility	clearing to the extent necessary to maintain (but not extend) the intended use of the area.
sight line area	clearing to the extent previously cleared for that area.

(2) An extent of clearing that is specified in the Table to subclause (1) by reference to previous clearing is so specified if and only if —

(a) the previous clearing took place within the 10 years immediately prior to the proposed clearing; and

(b) either —

(i) the previous clearing was lawful; or

(ii) the person clearing does not know, and cannot reasonably be expected to know, whether the previous clearing was lawful.

[Clause 2 amended: Gazette 7 Jul 2006 p. 2501.]

3. How the clearing is to be carried out

Clearing is to be carried out so that any cleared vegetation or debris —

[(a) deleted]

(b) to the extent to which it is not used on the site, is removed from the site within 90 days of the clearing; and

(c) if it is to be removed from the site —

(i) is not placed in a heap or windrow on uncleared vegetation; and

(ii) is left in a heap or windrow (that is secured so that it will not spread) until it is removed.

[Clause 3 amended: Gazette 24 Jun 2005 p. 2758; 7 Jul 2006 p. 2501.]

Schedule 3 — Infrastructure maintenance activities

[r. 5(1) item 23]

1. Infrastructure maintenance activities

(1) The following activities are infrastructure maintenance activities —

(a) maintenance of existing infrastructure;

(b) construction of infrastructure, if the construction commenced before Part 9 of the *Environmental Protection Amendment Act 2003* came into operation;

(c) the use of a site used to extract road or railway building materials if that site was used within the 2 years immediately before the day on which Part 9 of the *Environmental Protection Amendment Act 2003* came into operation;

(d) road widening or realignment, or construction of a crossover from a road to private property, and the construction or maintenance of sight line areas associated with any of these, if the road existed before Part 9 of the *Environmental Protection Amendment Act 2003* came into operation.

(2) In this clause —

sight line area means an area between the edge of a stretch of road and a line of sight necessary for the safe use of the stretch of road.

2. How the activity is to be carried out

An activity referred to in clause 1 is to be carried out so that any cleared vegetation or debris —

[(a) deleted]

(b) to the extent to which it is not used on the site, is removed from the site within 21 days of the clearing; and

(c) if it is to be removed from the site —

(i) is not placed in a heap or windrow on uncleared vegetation; and

(ii) is left in a heap or windrow (that is secured so that it will not spread) until it is removed.

[Clause 2 amended: Gazette 24 Jun 2005 p. 2758.]

Notes

This is a compilation of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
Environmental Protection (Clearing of Native Vegetation) Regulations 2004	30 Jun 2004 p. 2587-623	8 Jul 2004 (see r. 2 and *Gazette* 30 Jun 2004 p. 2581)
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2005	21 Jan 2005 p. 259	21 Jan 2005
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 2) 2005	24 Jun 2005 p. 2755-8	24 Jun 2005
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 3) 2005	23 Dec 2005 p. 6268-70	23 Dec 2005
Environmental Protection (Clearing of Native Vegetation) Regulations 2006	6 Jan 2006 p. 29-31	6 Jan 2006
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 2) 2006	31 Mar 2006 p. 1164-5	31 Mar 2006
Electricity Corporations (Consequential Amendments) Regulations 2006 r. 79	31 Mar 2006 p. 1299-357	1 Apr 2006 (see r. 2)
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 4) 2006	7 Jul 2006 p. 2499-501	7 Jul 2006
Reprint 1: The *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* as at 15 Sep 2006 (includes amendments listed above)		
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2007	30 Mar 2007 p. 1457-8	30 Mar 2007
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 2) 2007	22 Jun 2007 p. 2845	22 Jun 2007

Citation	Published	Commencement
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2008	10 Jun 2008 p. 2485-6	r. 1 and 2: 10 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Jun 2008 (see r. 2(b))
Reprint 2: The *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* as at 17 Apr 2009 (includes amendments listed above)		
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2013	14 Nov 2013 p. 5037	r. 1 and 2: 14 Nov 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 18 Nov 2013 (see r. 2(b) and *Gazette* 14 Nov 2013 p. 5027)
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 2) 2013	3 Dec 2013 p. 5623-4	r. 1 and 2: 3 Dec 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 4 Dec 2013 (see r. 2(b))
Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2019	3 May 2019 p. 1307-9	r. 1 and 2: 3 May 2019 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2019 (see r. 2(b))
Environmental Protection Regulations Amendment (Publication and Confidentiality) Regulations 2021 Pt. 2	SL 2021/178 22 Oct 2021	23 Oct 2021 (see r. 2(b) and SL 2021/176 cl. 2)
Environment Regulations Amendment (Aboriginal Cultural Heritage) Regulations 2023 Pt. 3	SL 2023/50 19 May 2023	1 Jul 2023 (see r. 2(b))
Environment Regulations Amendment (Aboriginal Heritage) Regulations 2023 Pt. 3	SL 2023/170 1 Nov 2023	15 Nov 2023 (see r. 2(b) and SL 2023/161 cl. 2)
Environment Regulations Amendment (Petroleum Legislation) Regulations 2026 Pt. 2	SL 2026/75 27 May 2026	28 May 2026 (see r. 2(b) and SL 2026/70 cl. 2)

Other notes

[1] Repealed by the *Swan and Canning Rivers (Consequential and Transitional Provisions) Act 2006* s. 4. See s. 8 of that Act in relation to the repeal of the *Swan River Trust Act 1988*.

[2] Formerly referred to the *Petroleum Act 1967*, the short title of which was changed to the *Petroleum and Geothermal Energy Resources Act 1967* by the *Petroleum Amendment Act 2007* s. 5. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
Aboriginal person	3
Aboriginal site	13(1)
alienated land	3
application area	7(1)
authority area	Sch. 1 cl. 2(4)
biodiversity conservation	4(2)
bioregion	3
building	3
clearing referral	11(1)
confidential material	11(1)
crossover area	Sch. 2 cl. 1
Crown land	3
department	13(1)
documentation	10
environmentally sensitive area	3
fence	3
fire hazard reduction burning	3
fire risk reduction area	3
intensive land-use zone	3
land conservation	4(2)
lateral clearance area	Sch. 2 cl. 1
limited clearing	3
native species	13(1)
plant	4(2)
previously cleared	Sch. 2 cl. 1
priority list	13(1)
property	3
public roadside facility	Sch. 2 cl. 1
publish	10
relevant documentation	11(2)
riparian vegetation	3
scrape and detect operation	Sch. 1 cl. 1
sight line area	3, Sch. 3 cl. 1(2)
species	13(1)
submit	10
threatened species	13(1)
transport corridor infrastructure	Sch. 2 cl. 1
utility	3
watercourse	3

water supply area ..... Sch. 1 cl. 1
wetland 3

© State of Western Australia 2026.
This work is licensed under a Creative Commons Attribution 4.0 International Licence (CC BY 4.0).
To view relevant information and for a link to a copy of the licence, visit www.legislation.wa.gov.au.
Attribute work as: © State of Western Australia 2026.
By Authority: ANDREW JONES, Government Printer