



A guide to the exemption for clearing native vegetation for maintenance in existing transport corridors

Environmental Protection Act 1986

Produced and published by

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168 St Georges Terrace, Perth, Western Australia

August 2015

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Accessibility

This document is available in alternative formats and languages upon request.

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Purpose

This guide sets out the exemptions for clearing of native vegetation to maintain existing transport corridors. It is intended to provide clarification on how the exemptions operate, who can rely on the exemptions, and where exempt clearing can be done. It also provides broad advice on best management practice guidelines for undertaking clearing for maintenance of existing transport corridors.

An unofficial copy of the *Environmental Protection Act 1986* (EP Act) and *Environmental Protection Regulations 1987* can be downloaded from the [State Law Publisher website](#).

Introduction

The clearing of native vegetation in Western Australia is regulated under the EP Act and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (Regulations). Clearing of native vegetation is an offence unless a permit has been granted, or an exemption applies.

Regulation 5, item 22 (Schedule 2) of the Regulations provides an exemption for clearing for maintenance in existing transport corridors.

How to use this guide

The first section of this guide explains how the exemption under the Regulations operates for clearing in existing transport corridors.

The second section of this guide contains an ‘index of activities’, which lists items by topic; for example, clearing for a crossover, lateral clearance area or public roadside facility.

The third section includes a ‘table of exemptions’, which provides summary information on the relevant exemption.

The underlined terms are defined in the Glossary on page 17.

More information

For further information on native vegetation clearing, assessments and compliance, including applications forms, fact sheets and guides, refer to [DER’s website](#) or contact +61 8 6467 5000.

The information provided in this document provides a general guide to the exemption for clearing of native vegetation in existing transport corridors. Persons who intend to undertake road and rail maintenance activities that may involve clearing of native vegetation are advised to consult the EP Act and seek advice, including legal advice, where necessary. While DER has endeavoured to ensure the accuracy of the contents of this document, it accepts no responsibility for any inaccuracies or wrongful interpretation, and persons relying on this document do so at their own risk.

Please refer to the State Law Publisher (SLP) for copies of the relevant legislations. Free electronic copies are available from the [SLP website](#).

Section 1 – Clearing for maintenance in existing transport corridors

Under the provisions of the EP Act, the clearing of native vegetation is an offence unless a permit has been granted or an exemption applies.

Exemptions for clearing that is done in order to give effect to a requirement to clear under a written law or authorised under certain statutory processes are contained in Schedule 6 of the EP Act. Examples of these types of exemptions include clearing for firebreaks under the *Bush Fires Act 1954* and clearing in accordance with a subdivision approval given by a responsible authority under the *Planning and Development Act 2005*.

Exemptions for certain routine land management practices are contained in the Regulations. Examples of these types of exemptions include clearing to construct a building or other structure, new fence lines, and vehicle and walking tracks. For each exemption there are restrictions that apply.

Regulation 5, item 22 of the Regulations exempts clearing for maintenance in existing transport corridors done in accordance with item 22 and Schedule 2 of the Regulations.

DER is aware that road and rail managers may have their own guides for undertaking maintenance activities. It is acknowledged that other guides may provide additional environmental management standards and their use is encouraged, provided that managers comply with the legal obligations under the EP Act, as outlined in this guideline.

Regulation 5

Clearing is not an offence if, among other possibilities, it is of a kind prescribed for the purposes of s 51C(c), and is not done in an environmentally sensitive area (for a discussion about environmentally sensitive areas please refer to 'Other matters – Environmentally sensitive areas', page 6). Regulation 5 of the Regulations sets out what kinds of clearing are 'of a kind prescribed for the purposes of s 51C(c)'.

One of the kinds of clearing set out in regulation 5 is clearing for maintenance in existing transport corridors.

Clearing for maintenance in existing transport corridors

Item 22 of the table to regulation 5(1) prescribes clearing for maintenance in existing transport corridors. Clearing alongside a stretch of a road or railway must be done in an area or for a purpose specified in Schedule 2 of the Regulations. The clearing must also be to the extent specified for that area or purpose in Schedule 2 and undertaken in accordance with Schedule 2. The exemption applies to the maintenance of both public and private roads. Importantly, the exemption for clearing in existing transport corridors applies to clearing for maintenance purposes only.

Any extension, widening or realignment of an existing road or railway that requires the clearing of native vegetation would be considered new works. New works are not covered under this exemption and any clearing of native vegetation that is not exempt by virtue of Schedule 6 would require a clearing permit.

Authority to clear

Regulation 5(1)(b) provides that the prescribed clearing must be done by, or with the prior authority of, the person listed in column 3 of the item for that exemption. Clearing for maintenance in existing transport corridors is only exempt if it is done by or with the prior authority of the Commissioner of Main Roads WA, the Public Transport Authority, the local government authority, or the person legally responsible for the stretch of road or railway (the person responsible).

The person responsible can engage an agent or contractor and authorise the agent or contractor to do the clearing on its behalf. However, the person responsible remains legally responsible for complying with the exemption and ensuring that its agent or contractor does so.

Damage to neighbouring vegetation

Regulation 5(1)(c) provides that all prescribed clearing must be done in such a way as to limit damage to neighbouring vegetation.

Schedule 2

Schedule 2 details the requirements that must be satisfied for the exemption for clearing for maintenance in existing transport corridors to apply. Firstly, it specifies the area in which, or purpose for which, clearing must be carried out; that is, the extent of clearing that is permissible for the specified area or purpose. Secondly, it specifies how the clearing is to be carried out.

Previous clearing

Where the table to clause 2(1) of Schedule 2 defines the extent of clearing allowed by reference to 'previously cleared', the previous clearing must have taken place within the 10 years immediately before the proposed clearing. In addition, it either must have been lawfully cleared or the person doing the current clearing did not know and could not reasonably have been expected to know whether the previous clearing was lawful.

While in some circumstances it may be difficult to ascertain the date or extent of previous clearing, the onus of doing so is on the person responsible. That person responsible could look for, among other things, written documentation of the previous clearing, dated photography of that stretch of rail or road or a statement by the person who authorised the previous clearing.

For previous clearing to be lawful it must have been an act that was not contrary to any law. An example includes clearing that was undertaken in accordance with a statutory power including those under the:

- *Main Roads Act 1930*;
- *Local Government Act 1995*; or
- *Public Transport Authority Act 2003*.

Crossover area

A 'crossover area' is defined in clause 1 of Schedule 2 to the Regulations to mean the 'area occupied by a crossover from a road to a property adjacent to the road and any associated sight line areas'; that is, it is the area of the road reserve used to access the property and any associated sight line areas.

Clearing for crossover areas is exempt under item 22, regulation 5 only to the extent previously cleared for the area.

An exemption applies in item 21A, regulation 5 for clearing as the result of constructing a new 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 an authority given by the road manager to construct the crossover. The person doing the clearing must comply with all requirements of the authority.

Lateral clearance area

'Lateral clearance area' in relation to a stretch of road or railway is defined in clause 1 of Schedule 2 to the Regulations to mean 'the area parallel and immediately adjacent to a stretch of road or railway that is ordinarily cleared'.

The lateral clearance area can be completely cleared to the width and height previously cleared for that stretch of road or railway.

Any clearing required to extend a lateral clearance area beyond that which was previously cleared would not be permitted under Schedule 2.

Transport corridor infrastructure

'Transport corridor infrastructure', in relation to a stretch of road or railway, is defined in clause 1 of Schedule 2 to the Regulations to include 'barriers, signs, guideposts, drains, levies, embankments, gutters, bridges, overpasses and other similar structures or works'. Similar structures and works could include lighting structures, drainage sumps and culverts.

Clearing where it is necessary to maintain the efficacy and safety of the infrastructure (that is to ensure that the infrastructure is safe and/ or fit for its purpose); protect the infrastructure (for example, from fire); and provide access to the infrastructure to maintain it, is exempt under item 22 of the Regulations.

Note that clearing that is necessary to maintain the safety of transport corridor infrastructure does not include new clearing for safety purposes within an existing transport corridor, unless the clearing was for the purpose of preventing danger (refer to the definition of imminent danger below under 'Safety').

Public roadside facility

A 'public roadside facility' is defined in clause 1 of Schedule 2 to the Regulations to include a 'camping area, rest area, information bay, road train assembly area, parking areas or a footpath or cycle track in the road reserve'. Other similar facilities could include dual-use paths and roadside furniture.

Clearing in areas that are public roadside facilities is exempt under regulation 5, item 22 to the extent that the clearing is necessary to maintain, but not extend, the intended use of the area.

Sight line area

'Sight line area' is defined in regulation 3 to mean 'an area between the edge of a stretch of road or railway and a line of sight necessary for the safe use of the road or railway'. The sight line area includes those areas necessary for the safe use of crossovers and public roadside facilities.

Clearing for sight line areas is exempt under regulation 5, item 22 to the extent previously cleared for the area.

Disposal of cleared vegetation

Clause 3 of Schedule 2 to the Regulations outlines some requirements as to how clearing for maintenance in existing transport corridors is to be carried out.

Any cleared vegetation or debris not used on site is to be removed within 90 days of the clearing. It must not be placed in a heap or windrow on uncleared vegetation and if left in a heap or windrow on cleared land it should be secured so that it will not spread. These requirements are to prevent damage to the remaining native vegetation in the area as a result of disposal of the cleared material.

It is acknowledged that some local government authorities choose to burn cleared vegetation and debris. Clause 3 does not prevent this practice, as long as such burning does not impact on the adjacent uncleared vegetation. However, in view of the risk that adjacent uncleared vegetation will be impacted upon as well as the fact that burning debris can result in pollution and reduced visibility on roads, DER recommends alternative disposal methods.

Other matters

Environmentally sensitive areas

Generally, the prescribed kinds of clearing are only exempt from the operation of the s 51C offence provision if they are not done in 'environmentally sensitive areas' (ESAs). ESAs are declared by the Minister for the Environment in a notice declared pursuant to s 51B of the EP Act. The most recent notice is the Environmental Protection (Environmentally Sensitive Areas) Notice 2005 (ESA Notice) gazetted on 8 April 2005. An unofficial copy of the ESA Notice can be downloaded from [the State Law Publisher website](#) and more information can be found in DER's [Fact Sheet 24 – Environmentally Sensitive Areas](#).

Under the ESA Notice, an area that would otherwise be an ESA is not an ESA to the extent to which the area is within the maintenance area of a stretch of road or railway. The maintenance area of a stretch of road or railway is defined in the ESA Notice to mean 'any area in the reserve for that stretch of road or railway that is lawfully cleared'. Therefore, the exemption prescribed in Regulation 5, item 22 (of the table to Regulation 5(1) of the Regulations) is, by virtue of the blanket exclusion of all maintenance areas of stretches of road or railway from the specifications of ESAs, always applicable. For example, drains and gutters previously cleared within a road reserve that would otherwise be an ESA can be cleared under this exemption.

Other exemptions in the Regulations that are not part of Schedule 2 could not be done within an ESA.

If there are requirements under any other legislation in respect of an ESA, these will continue to apply and must be complied with. For example, it is an offence under section 23F of the *Wildlife Conservation Act 1950* to take declared rare flora without Ministerial consent, regardless of whether the area is subject to an exemption under the EP Act or the Regulations.

Safety and accidents

Road and rail user safety is a key concern for the community. DER recognises the importance of safety in the maintenance of existing transport corridors. Safety is recognised in the definition of 'sight line area' and in the description of the extent of clearing permissible for maintenance and protection of 'transport corridor infrastructure'.

Clearing that is necessary to maintain the safety of transport corridor infrastructure does not include new clearing for safety purposes within an existing transport corridor.

Regulation 5, item 2(a) exempts clearing in non-ESAs for the purpose of preventing imminent danger to human life or health or irreversible damage to a significant portion of the environment. 'Imminent danger' refers to an immediate and present risk. For example, a tree damaged by lightning and therefore liable to fall can be cleared.

Dangers that are not present, immediate or imminent are not intended to be covered by this exemption. Potential dangers that may take years to manifest would not be considered imminent danger.

DER can only provide broad guidance as to what in its view constitutes imminent danger because it depends on the facts of each case. The person relying on the exemption must determine whether it applies and, in doing so, should have regard to the matters raised above.

Item 2(b) exempts clearing that occurs as a result of an accident where the accident was not caused by the negligence of the person clearing or the person who authorised the clearing. The term 'accident' is intended to mean an unforeseen and unexpected event and the exemption is intended to include road and rail accidents where the incident was not caused by the negligence of the person who does the clearing. An example would be where a vehicle accident resulted in clearing, and the accident was not caused by the negligence of the driver.

Cabinet of the Government of Western Australia has approved the drafting of an amendment to the EP Act that will provide for a defence to unlawful clearing that will be in similar terms to the exemption in item 2. If the amendment is passed by both houses of Parliament, it will effectively mean that persons will be able to rely on the defence of 'accident' or 'prevention of danger or damage' if they face a charge of unlawful clearing, regardless of whether the clearing was in an ESA or not. It is envisaged that regulation 5(1), item 2 would be repealed if the EP Act is amended in this way.

Best management practice

Neither regulation 5, item 22 of the table to regulation 5, nor Schedule 2 of the Regulations, stipulates how maintenance activities in existing transport corridors are to be undertaken. As road and railway maintenance activities will vary in each situation, methods of clearing native vegetation cannot be specified in the legislation. However,

a number of recommended best management practices have been identified that should be considered when undertaking maintenance activities.

While adoption of these best management practices is voluntary, implementation of these practices should minimise the impact of maintenance activities on native vegetation.

Planning and management

Best management practices should ideally be incorporated into the planning stages of road and rail maintenance activities. These practices could include measures to address the spread of dieback and weeds; the protection of declared rare and priority flora, particularly protected fauna and threatened ecological communities; water quality, erosion and sediment control; and stockpiling materials, hazardous waste and dust management.

The Roadside Conservation Committee (RCC) is an advisory committee consisting of government and non-government representatives. It provides guidance and examples for the development of roadside vegetation management plans, codes of practice and by-laws incorporating best practices for conserving, and managing native vegetation.

Best management practice documents developed by the RCC are available from the [RCC webpage](#).

Information relating to dieback management developed by the Department of Parks Wildlife is available at on the [DPaW website](#).

Training

It is recommended that the responsible person or contractors working on behalf of a responsible person ensure the people doing the work are trained to minimise the impact of maintenance activities on native vegetation.

The RCC coordinates and provides training to help people understand environmental considerations in the management of transport corridors and how they can work in an environmentally sensitive manner.

Consultation and engagement

The responsible person is encouraged to consult stakeholders before undertaking specific maintenance works, including stakeholders with a direct interest, such as adjacent landowners or community interest groups.

Road and rail managers can also have a broader role in engaging with the community to encourage the rehabilitation of degraded rail and roadsides. This could involve working with community groups to integrate rail and roadside vegetation into regional management strategies, and promoting specific research programs related to the management of rail and roadside vegetation.

Compliance with other laws

The responsible person should ensure it is complying with all other relevant laws that may relate to the clearing. These could include:

- *Environmental Protection Act 1986;*
- *Wildlife Conservation Act 1950;*
- *Conservation and Land Management Act 1984;*
- *Soil and Land Conservation Act 1945;*
- *Environment Protection and Biodiversity Act 1999 (Cth);*
- *Aboriginal Heritage Act 1972;* or
- *Native Title Act 1993 (Cth).*

Monitoring and compliance

DER is currently establishing procedures to enable periodic monitoring of native vegetation. The monitoring will be undertaken using geospatial information such as aerial photography and satellite imagery to determine the extent of clearing within Western Australia. The data will be used to provide information on illegal clearing, audit of clearing permits, and the extent of general vegetation. Those areas of the State identified as having high clearing activity will be monitored more frequently.

It is the responsibility of the person responsible for road or railway maintenance to ensure its activities are exempt under the EP Act or the Regulations or, in the absence of an exemption, to obtain a clearing permit. Penalties apply for the clearing of native vegetation where a permit has not been obtained and a valid exemption does not apply.

Section 2 – index of activities

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	Column 3 of item 22 of the table to Regulation 5(1)	13
Damage to neighbouring vegetation	Regulation 5(1)(c)	4
Crossover/crossover area	Regulation 5, item 21A of the table to Regulation 5(1)	13
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Lateral clearance area	Clause 1, clause 2(1) and the table to clause 2(2) of Schedule 2	29–30
Public roadside facility	Clause 1, clause 2(1) and the table to clause 2(2) of Schedule 2	29–30
Transport corridor infrastructure	Clause 1, clause 2(1) and the table to clause 2(2) of Schedule 2	29–30
Sight line area	Regulation 3 and clause 2(1) and the table to clause 2(2) of Schedule 2	2, 29–30
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Section 3 – table of exemptions

Topic/regulation	Wording in regulations	Explanation/comments
<p>Maintenance in existing transport corridors</p> <p>Regulation 5(1)(a), item 22(a), (b) & (c)</p>	<p><i>Regulation 5(a)</i> Clearing is of a kind prescribed for the purposes of s 51C(c) if —</p> <p>(a) it is described in an item in the table to this subregulation.</p> <p><i>Item 22</i> Clearing in relation to a stretch of road (whether public or private) or railway if the clearing is carried out —</p> <p>(a) in an area or for a purpose specified in Schedule 2; and</p> <p>(b) to the extent specified for that area or purpose in Schedule 2; and</p> <p>(c) in accordance with Schedule 2.</p>	<p>This exemption applies to clearing in existing transport corridors. In order to be exempt, the clearing must be carried out in accordance with Schedule 2.</p> <p>The exemption for clearing in existing transport corridors applies to clearing for maintenance purposes only.</p> <p>While this exemption does not apply in environmentally sensitive areas, clearing the maintenance area of a stretch of road or railway, where that area has been cleared before and is cleared in accordance with this exemption, is deemed not to be clearing within an environmentally sensitive area.</p>
<p>Regulation 5(1)(b), item 22 ‘person’</p>	<p><i>Regulation 5(b)</i> Clearing is of a kind prescribed for the purposes of s 51C(c) if —</p> <p>(b) it is by, or with the prior authority of, a person listed in the item in which the clearing is described.</p> <p><i>Item 22</i> 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>The clearing for maintenance in an existing transport corridor must be done by, or with the prior authority of, Main Roads WA, the Public Transport Authority, the local government, or any other person or entity legally responsible for the stretch of road or railway.</p>

Topic/regulation	Wording in regulations	Explanation/comments
<p>Impact on neighbouring vegetation</p> <p>Regulation 5(1)(c)</p>	<p>Clearing is of a kind prescribed for the purposes of section 51C(c) if —</p> <p>(c) it is done in such a way as to limit damage to neighbouring native vegetation.</p>	<p>Clearing for maintenance in an existing transport corridor must be done in a way to limit damage to neighbouring native vegetation.</p>
<p>New crossover</p> <p>Regulation 5(1)(a), item 21A</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>The exemption under item 21A enables the clearing of an area for constructing a new crossover.</p> <p>The clearing for constructing a new crossover must be done by, or with the prior authority of, Main Roads WA, the Public Transport Authority, the local government, or any other person or entity legally responsible for the stretch of road or railway.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>
<p>Existing crossover</p> <p>Schedule 2(1), 2(2) in Table</p>	<p>crossover area</p> <p>clearing to the extent previously cleared for the area.</p>	<p>The exemption under Schedule 2 enables the maintenance of a crossover to the extent previously cleared.</p> <p>The clearing for maintenance of an existing crossover must be done by, or with the prior authority of, Main Roads WA, the Public Transport Authority, the local government, or any other person or entity legally responsible for the stretch of road or railway.</p> <p>While this exemption does not apply in an environmentally sensitive area, clearing for the maintenance of a crossover, where that area has been cleared in accordance with this exemption, is deemed not to be clearing within an environmentally sensitive area.</p>

Topic/regulation	Wording in regulations	Explanation/comments
<p>Existing lateral clearance area</p> <p>Schedule 2(1), 2(2) in Table</p>	<p>lateral clearance area</p> <p>complete clearing to the width and height previously cleared for that stretch of road or railway.</p>	<p>The exemption under Schedule 2 enables the maintenance of a lateral clearance area to the extent previously cleared.</p> <p>The clearing for maintenance of an existing lateral clearance area must be done by, or with the prior authority of, Main Roads WA, the Public Transport Authority, the local government, or any other person or entity legally responsible for the stretch of road or railway.</p> <p>While this exemption does not apply in an environmentally sensitive area, clearing for the maintenance of a lateral clearance area, where that area has been cleared in accordance with this exemption, is deemed not to be clearing within an environmentally sensitive area.</p> <p>The exemption under Schedule 2 enables the maintenance of a public roadside facility to the extent previously cleared.</p>
<p>Existing public roadside facility</p> <p>Schedule 2(1), 2(2) in Table</p>	<p>an area that is a public roadside facility</p> <p>clearing to the extent necessary to maintain (but not extend) the intended use of the area.</p>	<p>The exemption under Schedule 2 enables the maintenance of a public roadside facility to the extent previously cleared.</p> <p>The clearing for maintenance of an existing public roadside facility must be done by, or with the prior authority of, Main Roads WA, the Public Transport Authority, the local government, or any other person entity legally responsible for the stretch of road or railway.</p> <p>While this exemption does not apply in an environmentally sensitive area, clearing for the maintenance of a public roadside facility, where that area has been cleared in accordance with this exemption, is deemed not to be clearing within an environmentally sensitive area.</p>

Topic/regulation	Wording in regulations	Explanation/comments
<p>Existing transport corridor infrastructure</p> <p>Schedule 2(1), 2(2) in Table</p>	<p>maintenance and protection of transport corridor infrastructure</p> <p>clearing to the extent necessary to —</p> <p>maintain the efficacy of the infrastructure;</p> <p>protect the infrastructure (for example, from fire); and</p> <p>provide access to the infrastructure to maintain it.</p>	<p>The exemption under Schedule 2 enables the maintenance and protection of existing transport corridor infrastructure to the extent necessary to maintain the efficacy of the infrastructure or protect the infrastructure or to provide access to the infrastructure to maintain it.</p> <p>The clearing for maintenance of an existing transport corridor infrastructure must be done by, or with the prior authority of, Main Roads WA, the Public Transport Authority, the local government, or any other person or entity legally responsible for the stretch of road or railway.</p> <p>While this exemption does not apply in an environmentally sensitive area, clearing for the maintenance of transport corridor infrastructure, where that area has been cleared in accordance with this exemption, is deemed not to be clearing within an environmentally sensitive area.</p>
<p>Existing sight line area</p> <p>Imminent danger & accidents</p>	<p>sight line area</p> <p>clearing to the extent previously cleared for that area.</p>	<p>The exemption under Schedule 2 enables the maintenance of a sight line area to the extent previously cleared.</p> <p>The clearing for maintenance of an existing sight line area must be done by, or with the prior authority of, Main Roads WA, the Public Transport Authority, the local government, or any other person or entity legally responsible for the stretch of road or railway.</p> <p>While this exemption does not apply in an environmentally sensitive area, clearing for the maintenance of a sight line area, where that area has been cleared in accordance with this exemption, is deemed not to be clearing within an environmentally sensitive area.</p>

Topic/regulation	Wording in regulations	Explanation/comments
<p>Disposal of cleared vegetation</p> <p>Schedule 2(3)</p>	<p>Clearing is to be carried out so that any cleared vegetation or debris —</p> <p>[(a) deleted]</p> <p>(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</p> <p>(c) if it is to be removed from the site —</p> <p>(i) is not placed in a heap or windrow on uncleared vegetation; and</p> <p>(ii) is left in a heap or windrow (that is secured so that it will not spread) until it is removed.</p>	<p>Cleared vegetation or debris in an existing transport corridor, if not used on-site, is to be removed within 90 days of clearing. If the debris is to be removed it should be stockpiled away from uncleared vegetation and secured to prevent spreading.</p>
<p>Imminent danger</p> <p>Regulation 5(1)(a), item 2(a)</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;</p>	<p>The exemption under item 2 enables clearing to reduce imminent danger to human life or health or irreversible damage to a significant portion of the environment.</p> <p>The clearing must be done by the owner of the land on which the clearing is to take place. The clearing must be done by 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>This exemption does not apply in an environmentally sensitive area.</p>

Topic/regulation	Wording in regulations	Explanation/comments
<p>Accidents</p> <p>Regulation 5(1)(a), item 2(b)</p>	<p>Clearing resulting from accidents or to reduce danger</p> <p>Clearing —</p> <p>(b) as a result of an accident caused otherwise than by the negligence of the person clearing or the person who authorised the clearing.</p>	<p>The exemption under item 2 provides for clearing caused as a result of an accident.</p> <p>This exemption does not apply in an environmentally sensitive area.</p>

Glossary of terms

Term	Meaning	Section/Regulation
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.	<i>Schedule 2, Clause 1.</i>
environmentally sensitive area	Means an area declared in the Environmental Protection <i>Environmentally Sensitive Areas) Notice 2005</i> to be an environmentally sensitive area.	<i>Environmental Protection (Environmentally Sensitive Areas) Notice 2005</i> 8 April No. 55
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.	<i>Schedule 2, Clause 1.</i>
maintenance area	Of a stretch of road or railway, means any area in the reserve for that stretch of road or railway that is lawfully cleared.	<i>Environmental Protection (Environmentally Sensitive Areas) Notice 2005</i> Clause 4(4).
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.	<i>Schedule 2, Clause 1.</i>
previously cleared	(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.	<i>Schedule 2, Clause 1 & 2(2).</i>
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.	<i>Schedule 2, Clause 1.</i>
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.	<i>Regulation 3.</i>