



Clearing limited to five hectares a year (limited clearing exemptions) *Environmental Protection Act 1986*

When do I require a permit?

The Environmental Protection Act 1986 (EP Act) requires that any person clearing native vegetation must hold a permit, unless the clearing is for an exempt purpose. These laws apply to private and public lands throughout Western Australia.

How can I check if my activity is exempt?

This fact sheet discusses exemptions from the requirement for clearing permits that apply for clearing for day-to-day activities.

Fact Sheets 5, 6, and 7 discuss exemptions for the purposes of mining and petroleum activities, fire, firewood, wildflowers, seed and timber, and maintaining previously cleared land for pasture, cultivation, forestry, and clearing for pastoral requirements.

For details on all of the exemptions, a publication 'A guide to the exemptions and Regulations for Clearing of Native Vegetation' is available at: www.der.wa.gov.au/nvp or contact the Department of Environment Regulation (DER) on 6467 5020.

Some exemptions are limited to a total of five hectares per year

The types of clearing referred to below, together with other limited clearing allowed under regulations, may not exceed five hectares in a financial year. If more than five hectares needs to be cleared, a permit must be obtained.

To be clear, this is five hectares in total, not five hectares per exemption category.

This exemption does not apply within environmentally sensitive areas (ESAs) described in the Environmental Protection (Environmentally Sensitive Areas) Notice 2005 (refer Fact Sheet 1). DER has an online 'Native Vegetation Map Viewer' at www.der.wa.gov.au/nvp to assist landholders in determining the location of ESAs

Do I need to apply for a clearing permit if I intend to clear less than five hectares?

The activities listed below may be exempt from requiring a clearing permit if the total clearing is limited to five hectares per financial year. The limited clearing exemptions include:

- Clearing to construct a building
- Clearing for firewood
- Clearing to provide fencing and farm materials
- Clearing for woodwork
- Clearing along a fence line on alienated land
- Clearing for vehicular tracks
- Clearing for walking tracks
- Clearing isolated trees.

Can I clear five hectares for each activity?

If you need to clear for more than one of the above listed activities, the total amount of clearing for all the activities combined is not to exceed five hectares per financial year.

If you need to clear more than five hectares, a clearing permit must be obtained.

Does the five hectares limit apply per person or per lot?

The limited clearing exemptions apply to a property, which can be made up of a number of land parcels.

Who can undertake the clearing?

Clearing under these exemptions can only be undertaken by, or with the prior authority of, the landowner. Exemptions relating to clearing for firewood, woodwork or to provide fencing and farm materials can also be undertaken by the occupier of the property, or with the occupier's prior authority.

Environmentally sensitive areas

The exemptions described in this fact sheet do not apply in environmentally sensitive areas.

Environmentally sensitive areas can be viewed from the Department of Environment Regulation's (DER) 'Native Vegetation Map Viewer' at www.der.wa.gov.au/nvp in the 'data' section.

What other requirements are there for the limited clearing exemptions?

Each limited clearing exemption has its own requirements. These are outlined below.

Clearing to construct a building

This limited clearing exemption allows the landowner to clear a site for the lawful construction of a building or other structure. All relevant building approvals must be obtained prior to commencing the clearing. The clearing is to be limited to the extent necessary for the construction.

This exemption does not extend to riparian vegetation. Riparian vegetation includes vegetation growing on the edges of a stream, river or wetland.

Clearing for firewood

This limited clearing exemption allows the landowner or occupier to obtain firewood from their property for their own domestic heating or cooking. This exemption does not allow you to kill live vegetation or prevent the regrowth of vegetation. You can not clear under this exemption if firewood can be obtained from vegetation already cleared for another purpose.

Clearing to provide fencing and farm materials

This limited clearing exemption allows the landowner or occupier of the property, on which the vegetation is located, to obtain materials for constructing and maintaining fences, buildings and other structures.

This exemption does not allow you to kill live vegetation or prevent the regrowth of vegetation. You can not clear under this exemption if material can be obtained from vegetation already cleared for another purpose.

Clearing for woodwork

This limited clearing exemption allows the landowner or occupier of the property to clear to provide timber for their own non-commercial woodwork. Woodwork includes furniture making, wood turning or carving. This exemption does not allow you to kill live vegetation or prevent the regrowth of vegetation. You can not clear under this exemption if timber can be obtained from vegetation already cleared for another purpose.

Clearing along a fence line – alienated land

This limited clearing exemption allows the landowner to clear land for a fence line on, or within, the property to the width necessary to provide access to construct or maintain a fence.

Clearing for vehicular tracks

This limited clearing exemption allows the landowner to clear land to construct a vehicular track on their property. Clearing is only exempt if:

- the clearing is no wider than necessary
- the vegetation is not in a road reserve
- there is at least 100m between that track and any other cleared land that can be used for the intended purpose of the track
- 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).

Clearing for walking tracks

This limited clearing exemption allows the landowner to clear land to construct a walking track on their property. Clearing is only exempt if:

- the clearing is no wider than necessary
- the track is to be used by pedestrians or there is a reasonable expectation that it will be used by pedestrians.

Clearing isolated trees

This limited clearing exemption allows the landowner to clear an isolated tree on their property. A tree is considered to be an isolated tree when it is in a cleared area that is more than 50m from any other native vegetation. For the purpose of this exemption, this is taken to include all trees that are more than 50m away from any other native vegetation.

Legislation

This document is provided for guidance only. It should not be relied upon to address every aspect of the relevant legislation. Please refer to the EP Act and Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (Clearing Regulations), available from the State Law Publisher. Free electronic copies are available from www.slp.wa.gov.au.

Legislation concerning exemptions from the requirement for clearing permits can be found in:

- ◆ Schedule 6 of the EP Act for clearing under other laws
- ◆ Regulation 5 of the Clearing Regulations for general day-to-day activities that have a low environmental impact.

Compliance assistance documents

Additional publications relating to clearing laws, clearing permits, and application forms are available online from www.der.wa.gov.au/nvp or can be requested by phoning 6467 5020.

Compliance advice

For advice on compliance with clearing laws and clearing permits, or any other related matter, please contact DER on 6467 5020.

For applications related to mineral and petroleum activities contact the Department of Mines and Petroleum's Native Vegetation Assessment Branch on 9222 3333.