



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

**GUIDELINE**

# **Clearing of native vegetation Offsets procedure**

*Under the Environmental Protection Act 1986*

**Produced and published by**

Department of Environment Regulation  
168 St Georges Terrace, Perth, Western  
Australia

August 2014

**Copyright © State of Western Australia  
2014**

All material is the copyright of the State of Western Australia. Permission is not given for any commercial use or sale of this material. No part of the contents of the publication may be reproduced by any process, electronic or otherwise, distributed, adapted, broadcast, performed in public or communicated to the public without the written consent of Department of Environment Regulation, except as permitted under the *Copyright Act 1968*.

**Disclaimer**

The information contained in this document is provided by Department of Environment Regulation in good faith. However, there is no guarantee of the accuracy of the information contained in this document and it is the responsibility of users to make their own enquiries as to its accuracy, currency, relevance and correctness.

The State of Western Australia and Department of Environment Regulation and their servants and agents expressly disclaim liability, in negligence or otherwise, for any act or omission occurring in reliance on the information contained in this document, or for any incident or consequential loss or damage of such act or omission.

The State of Western Australian is committed to providing quality information and has made every attempt to ensure the accuracy, currency, reliability and correctness of the information contained in this document. However, changes in circumstances and legislation after the time of publication may impact on the correctness or quality of this information.

In addition the accuracy, currency, reliability and correctness of links or references to information sources referred to or provided by third parties is outside the control of State of Western Australia and it is therefore the responsibility of the user to make their own decisions on information found on those external sites. Confirmation of any of the information provided in this document may be sought from the relevant originating bodies or the department providing the information; however, users of this material should verify all relevant representations, statements and information with their own professional advisers.

The State of Western Australia and Department of Environment Regulation reserve the right to amend the content of this document at any time without notice.

The information contained in this document is general. It does not constitute, and should be not relied on as legal advice. The State of Western Australia recommends seeking advice from a qualified lawyer on the legal issues affecting you before relying on this information or acting on any legal matter.

**Questions regarding this report should be directed to:**

Department of Environment Regulation  
Locked Bag 33 Cloisters Square  
PERTH 6850

Phone: +61 8 6467 5000  
Fax: +61 6467 5562  
Email: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)  
Web: [www.der.wa.gov.au](http://www.der.wa.gov.au)

**Accessibility** This document is available in alternative formats upon request.

# Contents

Purpose .....	1
Introduction .....	1
Legislation .....	2
Implementation .....	2
Commencement .....	2
Appendix A.....	3

## Purpose

This procedure is provided to assist applicants in the design of an offset proposal where required as a condition of a clearing permit under Part V Division 2 of the *Environmental Protection Act 1986* (EP Act).

## Introduction

Environmental offsets are actions that provide environmental benefits which counterbalance the significant residual impact of an activity, such as clearing native vegetation. Offsets are undertaken outside of the clearing area and should establish or maintain the native vegetation in a parcel of land. Offsets may include rehabilitation and revegetation or acquisition of land with a secure conservation purpose.

Offsets are required when a clearing application is determined by the Department of Environment Regulation (DER) or Department of Mines and Petroleum (DMP) to be at variance with one or more of the biodiversity related clearing principles (principles a – f, h) and a significant residual impact remains following application of the mitigation hierarchy. The clearing principles are contained in Schedule 5 of the EP Act. For further information on the assessment of clearing applications, please refer to '[A Guide to Assessment of Applications to Clear Native Vegetation](#)' from DER's website [www.der.wa.gov.au/nvp](http://www.der.wa.gov.au/nvp).

To ensure offset proposals submitted to DER or DMP meet the requirements of the [State Environmental Offsets Policy](#) and [State Environmental Offsets Guidelines](#), guidance on the matters taken into consideration under each policy principle is provided in [Appendix A](#). This information should assist applicants in preparing their offset proposal.

Where an application to clear is assessed under a bilateral agreement with the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*, consideration of the Commonwealth's EPBC Act environmental offsets policy and Offsets assessment guide may also be required.

[Appendix A](#) provides an example of the information you should provide (as a minimum) and how to present your offset proposal for assessment.

1. If insufficient information is provided you may be requested to provide more detail.
2. If the proposed offset includes revegetation, a revegetation plan should be submitted with the *Clearing permit offset proposal form*, located in [Appendix A](#).
3. A guide to preparing revegetation plans is available from [www.der.wa.gov.au/nvp](http://www.der.wa.gov.au/nvp).
4. For more information contact DER on 6467 5000.

## Legislation

Under section 51H(1) of the EP Act, the Chief Executive Officer (CEO) may grant a clearing permit that is subject to conditions the CEO considers to be necessary or convenient for the purposes of preventing, controlling, abating or mitigating environmental harm or offsetting the loss of the cleared vegetation.

The types of conditions that can be placed on a clearing permit are outlined in section 51I and include offsets.

51I Some kinds of conditions

- (2) (b) establish and maintain vegetation on land other than land cleared under the [clearing] permit in order to offset the loss of the cleared vegetation, or make monetary contributions to a fund maintained for the purpose of establishing or maintaining vegetation.

The EP Act also allows for the giving of a conservation covenant or other form of binding undertaking for the purpose of establishing or maintaining vegetation as a condition of a clearing permit.

**Offsets are required when clearing is at variance with one or more of the biodiversity related clearing principles (principles a – f, h) and a significant residual impact remains.**

## Implementation

DER or DMP will advise the applicant if a clearing application has a significant residual impact and therefore requires an offset after an assessment has been undertaken.

Once advised, applicants should discuss their offset proposal with DER or DMP, and then submit their offset proposal using the procedure available in [Appendix A](#).

The department will assess the acceptability of the offset proposal with regard to the [State Environmental Offsets Guidelines](#).

DMP has delegated authority from the CEO of DER to regulate clearing of native vegetation for mining and petroleum related activities under the *Mining Act 1978*, various Petroleum Acts and State agreements administered by the Department of State Development.

The CEO's decision to grant a clearing permit and or any conditions on a clearing permit are open to appeal by the applicant or third parties. The Minister for Environment will consider the appeal(s) and make the final determination.

## Commencement

This Procedure is to take effect from 1 August 2014.



## Appendix A

### Clearing permit offset proposal form

*Environmental Protection Act 1986*

1. Occupier's details	
Date: Clearing permit application number:	CPS
Applicant:	
Phone numbers:	
Email:	
Contact person or environmental specialist:	
Name:	
Company:	
Phone numbers:	
Email:	
Environmental specialist's qualifications or equivalent, and relevant experience:	
Purpose of clearing:	
Land details of the clearing application area:	
Total area of the proposed clearing (hectares):	

2. Proposed on site mitigation (if applicable)	
Area (ha) / number of trees to be planted:	
Other on ground management actions proposed:	
Future tenure and/or zoning: (e.g. a conservation covenant will be placed on the certificate of title after sand mining and rehabilitation is undertaken)	

Estimated future vegetation condition (Keighery scale):	
Proposed commencement date of rehabilitation and revegetation:	
Proposed completion date of rehabilitation and revegetation: (date by which the benefit for the species/vegetation community impacted has been achieved)	
Is a revegetation plan attached?	
Is the spatial data for the location of on site mitigation provided (ESRI shapefile format)?	
Estimated cost of mitigation (on site rehabilitation and revegetation):	

**3: Proposed offset site (off site location)**

Land details:	
Area (ha) or number of trees at site prior to offset being undertaken:	
Type of offset: (rehabilitation and revegetation, on ground management or land acquisition)	
Current scheme zoning: (region or local scheme)	
Are there any development approvals? (for example, extractive industry license or <i>Environment Protection and Biodiversity Conservation Act 1999</i> approval)	
Future tenure and/or zoning: (e.g. proposed to change local council reserve from recreation to conservation purposes)	
Current vegetation condition (Keighery scale):	
Future predicted vegetation condition, if rehabilitation and revegetation or other on ground management are being carried out as part of the offset proposal (Keighery scale):	
Proposed commencement date of rehabilitation and revegetation and/or other on ground management:	

Proposed completion date of rehabilitation and revegetation and/or other on ground management: (date by which the benefit for the species/vegetation community impacted has been achieved)	
Proposed date of land acquisition or method of securing the tenure of the site:	
Is the environmental survey of the offset site attached?	
Is a revegetation plan attached (if required)?	
Is the spatial data for the location of the offset site provided (ESRI shapefile format)?	
Is the spatial data for the environmental survey of the offset site provided (ESRI shapefile format) (vegetation condition and type, locations of habitat trees)	
Estimated cost of the offset:	

**4. Information demonstrating that the offset policy principles have been addressed (if you require more space for this section, please attach separate documents)**

1.Environmental offsets will only be considered after avoidance and mitigation options have been pursued.

Please explain how the significant impacts of the project (as identified by DER or DMP in the preliminary assessment report provided to the applicant) have been avoided and/or minimised. You should explain how each of the mitigation hierarchy steps (avoid, minimise, rehabilitate) have been applied to address each significant impact (that is, each clearing principle that is at variance), from the original proposed clearing application area through to the current proposed clearing application area. Offsets are only applied to the significant residual impact that remains after these steps have been taken.



2. Environmental offsets will be cost-effective, as well as relevant and proportionate to the significance of the environmental value being impacted.

You should explain how the proposed offset will address each of the impacts described under the biodiversity related clearing principle(s) that the application is at variance to (as outlined in the DER or DMP preliminary assessment report provided to the applicant). Under each principle at variance, you should provide information on each environmental value that may be removed or decline as a result of the clearing and how the offset will provide equivalent or better replacement for these values (e.g. fencing the site, other habitat provided, etc.)

It is preferable that the design of an offset leads to a net gain in size, density and diversity of native vegetation and an overall improvement in the condition of the natural environment and the specific environmental values requiring offsetting. Please include information on how your offset has given consideration to ecosystem function, rarity, connectivity, vegetation condition, habitat quality and the type of ecological community cleared.

The requirement for 'equivalent or better replacement' is the key to successfully addressing this offset principle. For example, if breeding habitat (trees with hollows) for Carnaby's cockatoo is cleared then it is not appropriate to propose feeding habitat as an offset.

You may also provide information detailing expertise and demonstrated success in rehabilitation of the same vegetation type.

3. Environmental offsets will be based on sound environmental information and knowledge.

Describe how the environmental specialist has been involved in the design of the offset proposal and how and when an environmental specialist will be involved in the implementation and monitoring of the offset.

An environmental specialist means a person who is engaged by the permit holder for the purpose of providing environmental advice, who holds a tertiary qualification in environmental science or equivalent, and has experience relevant to the type of environmental advice that is required under the clearing permit and offset proposal.

You must describe the methodology for determining the components of an offset proposal. For example, this may include the identification of a suitable site based on landform, soil, proximity, species composition and relationship to the environmental values impacted.

If your offset includes rehabilitation and revegetation, please provide evidence of how the completion criteria were determined as appropriate and evidence of your ability to successfully meet those criteria. (Note. You may refer to the revegetation plan rather than repeat information)

4. Environmental offsets will be applied within a framework of adaptive management.

Adaptive management involves defining the problem, establishing goals, implementing the action (including monitoring plans), evaluating the results and adapting in response to new information. For environmental offsets, this principle primarily relates to rehabilitation and revegetation or on ground management of native vegetation.

An adaptive management approach requires that contingency measures are in place to respond if monitoring determines an offset is not on track to meet completion criteria.

You should briefly describe the following (detailed information should be provided in the revegetation plan):

- Objectives
- Brief description of how the offset will be implemented (including timeframes)
- Monitoring techniques and timeframes
- Contingencies (e.g. monitoring results may trigger infill planting to ensure rehabilitation is successful).

5. Environmental offsets will be focused on longer term strategic outcomes.

Before an offset can be approved, you must ensure that any other licences or approvals that are required have been obtained, and provide evidence of these. Examples include a letter of support from the landowner of an offset acquisition, a copy of the applicant's licence to collect seed or a licence to relocate fauna.

Explain what management processes will be implemented to ensure that there is an environmental benefit achieved over the longer term. You must be able to demonstrate that the tenure of the offset is secure and provides a long term conservation benefit for the environmental value/s impacted by the clearing. For example, an offset may be based on the types of actions proposed in a species recovery plan but additional to work already undertaken by the Department of Parks and Wildlife or land manager and not part of normal responsibilities.

5. Ongoing commitments and consultation	
<p>Monitoring commitment (including costs):                      (Note: you may refer to the revegetation plan here, if applicable, rather than repeat information.)</p>	
<p>Management commitment (including costs):                      (Note: you may refer to the revegetation plan here, if applicable, rather than repeat information.)</p>	
<p>Agencies or other organisations consulted and submissions received:</p>	

6. Other	
<p>Please note that contaminated site/s classified under the <i>Contaminated Sites Act 2003</i> (past refuse disposal facilities, maintenance yards) are not considered to be suitable offset sites</p>	Noted
<p>You must ensure all laws are complied with (e.g. <i>Native Title Act 1993</i>) and that necessary approvals are obtained (e.g. from landowner/s on which the offset will occur in the event that the subject land is not vested with the applicant) prior to submission.</p>	Noted
<p>The agreed offset proposal document and revegetation plan may be published on the WA Environmental Offsets Register.</p>	Noted