



Vegetation conservation notices (VCN)

Environmental Protection Act 1986

What is a vegetation conservation notice?

A vegetation conservation notice (VCN) is a statutory notice given under s 70 of the *Environmental Protection Act 1986* (EP Act) when the Chief Executive Officer (CEO) of the Department of Environment Regulation (DER) suspects on reasonable grounds that unlawful clearing of native vegetation is likely to take place, is taking place, or has taken place on the land.

Clearing is unlawful if it is undertaken without the authority of a clearing permit or an exemption.

A VCN is given to prevent unlawful clearing or further unlawful clearing of native vegetation on the land and may require such specified measures within a certain time frame as the CEO considers are necessary to:

- repair any damage caused by the clearing;
- re-establish and maintain the vegetation to its pre-clearing condition; and
- prevent erosion.

A person bound by a VCN must ensure that no unlawful clearing, or further unlawful clearing, takes place and must comply with any specified measures.

A VCN may be amended by the CEO to extend the period of any measures or revoke or amend any requirement.

When is a VCN given?

Inspectors from DER will inspect a property and collect evidence that the

CEO will use in deciding whether to give a VCN.

The CEO may give a VCN to prevent unlawful clearing or further unlawful clearing at any time.

If the CEO considers that measures to restore the environmental values of vegetation are necessary, before giving a VCN that includes such measures, the CEO will notify you in writing, and invite you to make a submission.

Before the CEO determines whether any measures are necessary, DER conducts an assessment of an area to which the measures in the VCN may be applied to determine the environmental values that have been damaged.

What can I do on the land to which a VCN applies?

You may not undertake any unlawful clearing activities on the land subject to the VCN.

Clearing includes the removal, killing, destruction or doing of any other substantial damage to, some or all of the native vegetation in an area and includes severing or ringbarking of trunks or stems, flooding, draining, grazing and burning. Native vegetation includes dead vegetation, seeds and underground root stock. Unlawful clearing is an offence and can result in prosecution.

You may conduct lawful clearing activities. These are activities done in accordance with a clearing permit or exemption. You should seek advice if you believe an exemption may apply.

You may apply for a clearing permit. The clearing under application may not be undertaken unless a permit has been granted.

What must I do if I am given a VCN requiring measures to be undertaken?

It is an offence not to take such measures as the CEO specifies in a VCN.

The specified measures may include activities such as revegetation, weed management, fencing to exclude livestock, dieback control, topsoil replacement, monitoring and reporting.

The VCN will specify a duration that the CEO considers necessary for the completion of the measures. This is commonly 10 years, but may be varied as required. The measures usually include success criteria. If the success criteria are not achieved within the duration, the period of the VCN may be extended.

DER inspectors are likely to undertake periodic monitoring of the measures on a VCN.

You must bear the cost of taking any measures. If action required by a VCN is not taken, the CEO may undertake that action and recover the cost of taking that action from you in court.

What if I disagree with the decision to give a VCN or any of its measures?

An appeal may be lodged with the Minister for Environment if you are aggrieved by the requirement for the VCN or any measures on that VCN.

Third parties also have rights of appeal where they disagree with a requirement contained in the VCN.

If an appeal is lodged, it must be in writing (clearly setting out the grounds) and be received by the Minister for Environment within 21 days from the date of being given the VCN.

You may email, fax, post or deliver your appeal to:

The Office of the Appeals Convenor
Level 22 Forrest Centre
221 St George's Terrace
PERTH WA 6000

Fax: +61 8 6467 5199.

In determining an appeal on a VCN, the Minister will consider whether the CEO had reasonable grounds to suspect unlawful clearing, and if so, whether any measures in the VCN are reasonable.

Pending the determination of an appeal, the relevant requirements contained in the VCN continue to have effect.

Further information on the appeals process can be obtained from the [Office of the Appeals Convenor](#).

Does the VCN bind future owners?

DER must provide a copy of the VCN to the Western Australian Planning Commission and Western Australian Land Information Authority to register the VCN on the Certificate of Title.

In the event that the property is sold or otherwise transferred, the registered proprietor must notify the CEO.

Future owners of the land are bound by the VCN and must be notified by the current owner in writing of the VCN and its requirements.

DER publishes records of all VCNs given in *The West Australian* newspaper and on its [website](#).

More information

For advice on environment regulation, or related matters, please contact DER on +61 8 467 5000.

Related documents and references

Additional [publications about clearing regulation](#) and related fact sheets are available online on DER's website, or by contacting the Department on +61 8 6467 5000.

Environmentally sensitive areas can be viewed from the [Native Vegetation Map viewer](#).

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 State Law Publisher (SLP) for copies of the relevant legislation, available electronically from the [SLP website](#).

This document is available in alternative formats and other languages on request.

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Legal advice

The information provided to you by DER in relation to this matter does not constitute legal advice. Due to the range of legal issues potentially involved in this matter, DER recommends that you obtain independent legal advice.