Government of Western Australia
Department of Water and Environmental Regulation

Clearing Permit Decision Report

1 Application details and outcome

1.1. Permit application details

Permit number:	CPS 11208/1
Permit type:	Purpose permit
Applicant name:	Regional Power Corporation, trading as Horizon Power
Application received:	31 July 2025
Application area:	73.5 hectares of native vegetation within a 307.5 hectare clearing envelope.
Purpose of clearing:	Geotechnical investigations, water, gas, cable, pipeline and power installation.
Method of clearing:	Mechanical clearing
Property:	Lot 31 on Deposited Plan 207640 Lot 15 on Deposited Plan 230140 Lot 14 on Deposited Plan 230140 Lot 5 on Deposited Plan 230140 Lot 648 on Deposited Plan 209773 Derby Highway Road reserve (PIN 11434260, PIN 11433669, PIN 11433670, PIN 11433697) Unnamed road reserves (PINs 11434265, 11434266, 11434270, 11434272, 11434275, 1295834, 11434271) Wodehouse Street Road reserve (PIN 11433619 Guildford Street Road reserve (PIN 11433623) Broome Street Road reserve (PIN 11433626) Gladstone Street Road reserve (PIN 11433633) Fitzroy Street Road reserve (PIN 11433671)
Location (LGA area/s):	Shire of Derby-West Kimberley
Localities (suburb/s):	Derby

1.2. Description of clearing activities

Horizon Power is proposing to construct a Future Energy System (FES) in Derby in the Kimberley region of Western Australia. The proposal is a renewable energy project aimed to reduce emissions and decarbonise the town. The Derby FES proposal consists of a solar photovoltaic system (21 megawatts), battery energy system (BESS) (8 megawatts), a thermal power station (8 megawatt) and an 8.9 kilometre network connection route. The vegetation proposed to be cleared is contained within a single contiguous 73.5 hectares within a 307.5 hectare footprint area (see Figure 1, Section 1.5).

1.3. Decision on application

Decision:	Granted
Decision date:	25 November 2025
Decision area:	73.5 hectares of native vegetation, as depicted in Section 1.5, below.

1.4. Reasons for decision

This clearing permit application was submitted, accepted, assessed and determined in accordance with sections 51E and 51O of the *Environmental Protection Act 1986* (EP Act). The Department of Water and Environmental Regulation (DWER) advertised the application for 28 days and two submissions were received. Consideration of matters raised in the public submission/s is summarised in Appendix A.

In making this decision, the Delegated Officer had regard for:

- concerns raised by public members during the advertising period (Appendix A)
- application area site characteristics (Appendix B)
- the clearing principles set out in Schedule 5 of the EP Act (see Appendix C)
- advice from DWER's North West Branch under the *Rights to Water and Irrigation Act 1914* (DWER 2025a)
- advice from DWER's Contaminated Sites Branch under the *Contaminated Sites Act 2003* (DWER, 2025b)
- the findings of a flora, fauna and vegetation survey (GHD, 2024)
- relevant datasets (see Appendix F1); and
- relevant planning instruments and any other matters considered relevant to the assessment (see Section 3).

The Delegated Officer also took into consideration that the objective of the proposal is to support an increase in the supply of renewable energy in Western Australia and is aligned with the State's objective to develop a cleaner, more diverse, and affordable electricity network.

The assessment identified that the proposed clearing will result in:

- the loss of native vegetation that provides suitable habitat conservation significant fauna, including habitat trees with suitable hollows for Northern Blue-tongue Skink (*Tiliqua scincoides intermedia*) and Northern Brushtail Possum (*Trichosurus vulpecula arnhemensis*)
- impacts on fauna individuals present in the application area during the clearing activities
- potential wind erosion if cleared area are exposed for an extended period; and
- the potential introduction and spread of weeds into adjacent vegetation, which could impact on the quality of the adjacent vegetation and its habitat values.

After consideration of the available information, as well as the applicant's minimisation and mitigation measures (see Section 3.1), the Delegated Officer determined the proposed clearing is unlikely to lead to appreciable land degradation or have long-term adverse impacts on environmental values (significant fauna) and can be minimised and managed to unlikely lead to an unacceptable risk to environmental values. The applicant has suitably demonstrated avoidance and minimisation measures.

The Delegated Officer decided to grant a clearing permit subject to conditions to:

- undertake pre-clearance fauna surveys for Northern Blue-tongue Skink and Northern Brushtail Possum
- conduct clearing in a slow directional manner toward adjacent native vegetation to allow fauna to move into adjacent vegetation ahead of the clearing activity to minimise impact to individuals
- Covering test pits and backfilling to avoid trapping fauna
- Wind erosion management to minimise the exposure time of soils prior to construction
- Implement weed control measures to minimise the risk of the introduction and spread of weeds into adjacent fauna habitat; and
- Revegetation of all areas cleared for temporary works upon conclusion of the purposes of the proposed clearing.

1.5. Site map

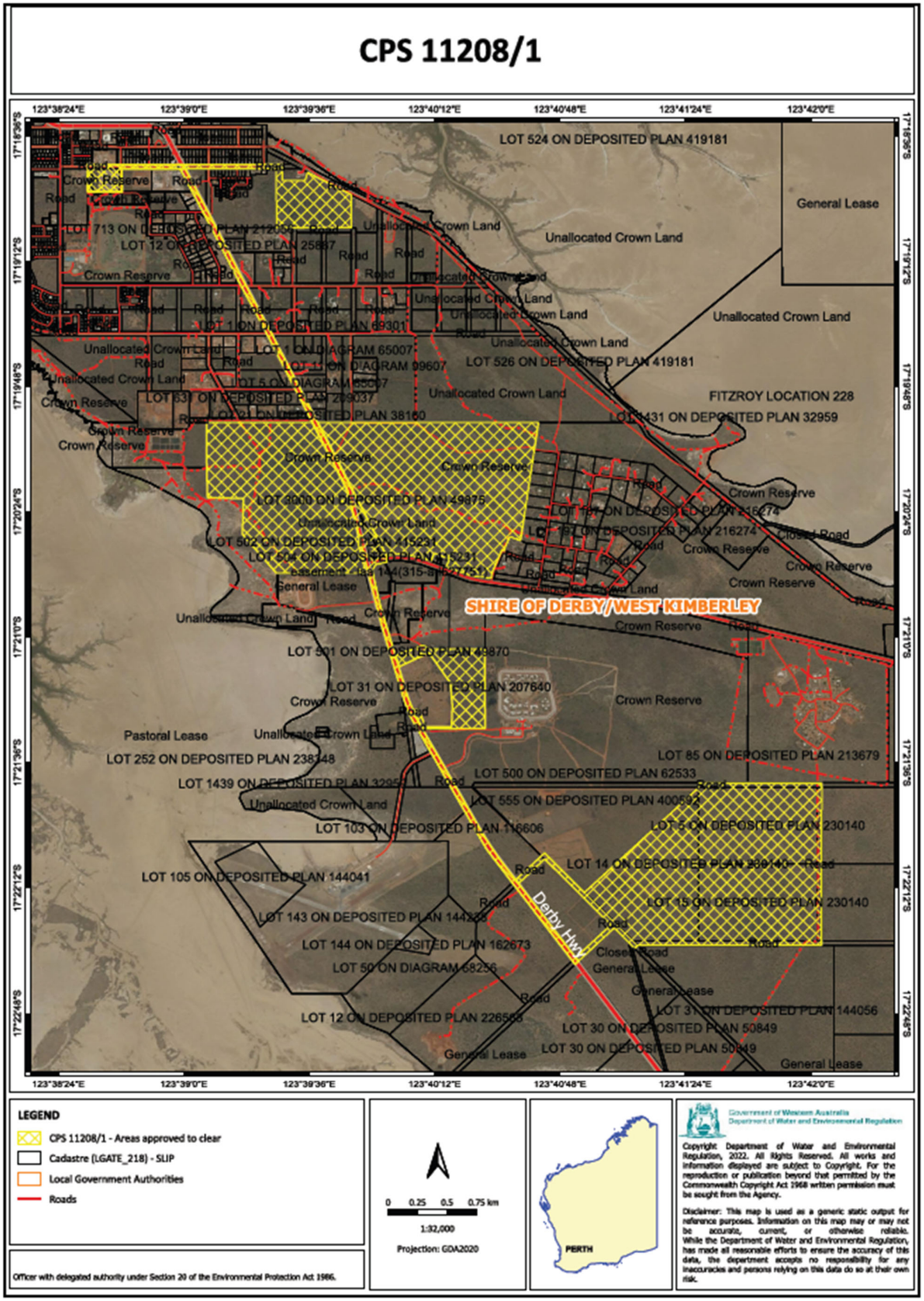

Figure 1: Map of the footprint area. The areas crosshatched yellow indicate the areas authorised to be cleared under the granted clearing permit.

2 Legislative context

The clearing of native vegetation in Western Australia is regulated under the EP Act and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (Clearing Regulations).

In addition to the matters considered in accordance with section 51O of the EP Act (see Section 1.4), the Delegated Officer has also had regard to the objects and principles under section 4A of the EP Act, particularly:

- the precautionary principle
- the principle of intergenerational equity
- the principle of the conservation of biological diversity and ecological integrity.

Other legislation of relevance for this assessment include:

- *Biodiversity Conservation Act 2016* (WA) (BC Act)
- *Conservation and Land Management Act 1984* (WA) (CALM Act)
- *Country Areas Water Supply Act 1947 (WA) (CAWSA Act)*
- *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)
- *Planning and Development Act 2005* (WA) (P&D Act)
- *Aboriginal Heritage Act 1972*
- *Native Title Act 1993* Cth
- *Biosecurity and Agriculture Management Act 2007*
- *Contaminated Sites Act 2003*
- *Rights in Water and Irrigation Act 1914*

The key guidance documents which inform this assessment are:

- *A guide to the assessment of applications to clear native vegetation* (DER, December 2013)
- *Procedure: Native vegetation clearing permits* (DWER, October 2019)
- Technical guidance – *Flora and Vegetation Surveys for Environmental Impact Assessment* (EPA, 2016)
- Technical guidance – *Terrestrial Fauna Surveys for Environmental Impact Assessment* (EPA, 2016)

3 Detailed assessment of application

3.1. Avoidance and mitigation measures

The applicant advised that initial avoidance and minimisation was undertaken during site selection, including:

- The network connection route follows an existing cleared corridor along Derby Highway, Wodehouse Street, Broome Street, reducing the amount of clearing required for access tracks.
- Locating the thermal power station adjacent to the existing power station on Broome Street.
- The development envelope was developed to avoid environmental constraints including Priority flora records and riparian vegetation.

The applicant developed an Environmental Management Plan (EMP) that lists the specific mitigation and a management measure to be applied during the construction of the project including:

- No clearing is permitted outside the development envelope.
- Clearing will be minimised where possible through placement of assets and access tracks in existing cleared locations where possible.
- Works will be undertaken systematically to minimise re-run and compaction of access tracks.
- Areas of degraded, sparsely vegetated and/or previously cleared areas will be preferentially selected for the location of test pits and laydown areas.
- The clearing locations are to be demarcated with flagging tape, GPS or similar prior to clearing activities.
- Clearing areas are to be checked by an Environmental Specialist or Site Supervisor prior to clearing to ensure no more than 73.5 ha of clearing is undertaken for the FES Project.
- A pre-clearing environmental toolbox will be held so all staff are aware of their responsibilities under the permit.
- Clearing of native vegetation will be undertaken in a slow, progressive manner in one direction to allow fauna to move away from the clearing area.
- Movement of vehicles and machinery will be in convoy along access tracks/ routes and will not go into adjacent vegetation.
- Vehicles and machinery will arrive clean, and weed control will be undertaken at the site post-construction as required.
- A pre-clearance survey will be undertaken within the development envelope for the Northern Brushtail Possum and Northern Bluetongue Skink.

- Habitat trees suitable for the Northern Brushtail Possum, Northern Coastal Free-tailed Bat and the Gouldian Finch will be avoided where possible during site selection and design.

The Delegated Officer was satisfied that the applicant has made a reasonable effort to avoid and minimise potential impacts of the proposed clearing on environmental values. Some of the proposed avoidance and mitigation measure has been converted as a condition in the granted permit

3.2. Assessment of impacts on environmental values

In assessing the application, the Delegated Officer has had regard for the site characteristics (see Appendix B) and the extent to which the impacts of the proposed clearing present a risk to biological, conservation, or land and water resource values.

The assessment against the clearing principles (see Appendix C) identified the impacts of the proposed clearing are limited and able to be managed to be environmentally acceptable with standard avoid and minimize, hygiene, progressive clearing and erosion management conditions.

3.2.1. Biological values / Biodiversity - Clearing Principles (a)

Assessment
GHD (2024) conducted a detailed terrestrial flora survey in March 2024. The survey timing (March) was appropriate for the Northern botanical province (January to March) due to adequate rainfall in the region. The following vegetation types were identified in the application area:

- VT02 - Open woodland of *Corymbia dichromophloia*, *Adansonia gregorii* and *Lysiphyllum cunninghamii* over open shrubland (where more recently burnt) or tree form of *Acacia tumida var. kulparn* over open shrubland of *Alstonia linearis, Dodonaea hispidula* and *Brachychiton diversifolius subsp. diversifolius* over open tussock grassland of *Chrysopogon fallax*, *Eriachne obtusa* and *Aristida hygrometrica* over open forbland of *Trichodesma zeylanicum var. latisepaleum*, *Trianthema pilosum* and *Microstachys chamaelea* on light brown sandplain.
- VT03 - Open woodland of Adansonia gregorii, *Corymbia zygophylla* and *Corymbia opaca* over open woodland of *Lysiphyllum cunninghamii*, *Hakea arborescens* and *Melaleuca cajuputi subsp. cajuputi* over shrubland of *Flueggea virosa subsp. melanthesoides*, *Terminalia canescens* and *Calytrix exstipulate* over mixed open forbland of *Jasminum molle*, *Drosera derbyensis, Ptilotus polystachyus* and *Waltheria indica* on light brown sandy loam seasonal drainage flats.
- VT04 - Open woodland of *Adansonia gregorii, Corymbia dichromophloia* and *Corymbia zygophylla* over open woodland of *Lysiphyllum cunninghamii*, *Gyrocarpus americanus subsp. americanus* and *Hakea arborescens* over mixed shrubland of *Acacia monticola, Acacia tumida var. kulparn*, *Calytrix exstipulata* and *Flueggea irosa subsp. elanthesoides* over open hummock grassland of *Triodia caelestialis* over open tussock grassland of *Eriachne obtusa* and *Chrysopogon fallax* over mixed open forbland of *Solanum cunninghamii*, *Melhania oblongifolia, Waltheria indica* and *Trichodesma zeylanicum var. latisepaleum* on light brown sandy loam plains.
- Planted native trees over weeds.
- Scattered natives over weeds.

The survey identified 136 flora taxa from 39 families and 91 genera (including subspecies and variants). No EPBC Act or BC Act listed threatened or priority flora taxa were identified within the application area during the field survey. The closest priority flora identified was *Haemodorum capitatum* (P1) recorded approximately 165 m east of the application area. Given the separation distance, the proposed clearing is unlikely to impact conservation significant flora.

No Threatened Ecological Communities (TECs) or Priority Ecological Communities (PECs) listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), *Biodiversity Conservation Act 2016* (BC Act) or DBCA listed were identified within the application area during the field survey.

The vegetation condition ranges from very good to completely degraded with most of the vegetation in very good condition.

Conclusion
The proposed clearing will not impact conservation significant flora or ecological communities. The impacts of the proposed clearing of native vegetation can be managed by taking steps to minimise the risk of the introduction and spread of weeds and rehabilitate temporary cleared areas.

Conditions

To address the above impacts, the following management measures will be required as conditions on the clearing permit:

- Implement weed control measures to minimise the risk of the introduction and spread of weeds into adjacent remnant vegetation; and
- Rehabilitate temporary cleared areas.

3.2.2. Biological values – Fauna - Clearing Principles (b)

Assessment

GHD (2024) conducted a detailed terrestrial fauna survey in March 2024. The survey included the footprint area and identified 90 species, including 61 birds, 13 mammals, 14 reptiles and 2 amphibians. Three fauna habitats which may provide habitat for a number of fauna species recorded in the local area were mapped within the footprint area:

- Mixed tall closed woodland sandplain (up to 29.6 ha);
- Mixed tall open shrubland sandplain (up to 2.6 ha), and
- Open eucalypt woodland (up to 66.4 ha).

Nineteen individual trees were determined suitable for nesting, with up to four proposed for clearing.

A review of NatureMap database identified 378 terrestrial vertebrae fauna species, including 13 amphibians, 274 birds, 20 mammals, 22 fish species and 49 reptiles. These species included:

- 60 bird species (42 Migratory (MI), 2 Critically Endangered (CR), 8 Endangered (EN), 7 Vulnerable (VU), 1 Other Specially Protected Species (OS).
- 8 mammal species (1 Endangered (EN), 5 Vulnerable (VU), 1 Priority one (P1), 1 Priority two (P2).
- 4 reptile species (2 Critically Endangered (CR), 1 Endangered, 1 Migratory (MI).
- 4 freshwater fish species (3 Vulnerable (VU), 1 Priority one (P1).
- 1 amphibian (Priority 3).

The fauna habitat survey recorded the following conservation significant fauna species within the footprint area.

- Northern Blue-tongue Skink (CR) – recorded at three sites; likely to occur across all habitat types.
- Fork-tailed Swift (MI) – recorded in one area; likely seasonal presence across all habitats.
- Oriental Cuckoo (MI) – recorded in one area; likely to occur across all habitats.
- Northern Coastal Free-tailed Bat (P1) – recorded at Derby; likely to roost in tree hollows throughout all vegetation habitats.

Conservation species likely to occur within the footprint area, but not recorded during the survey, are:

- Gouldian Finch (EN/P4) – likely presence at Derby due to suitable seasonal grass foraging habitat.
- Grey Falcon (VU) – likely occasional presence due to local/regional records and available foraging habitat.
- Peregrine Falcon (OS) – likely occasional presence at Derby due to habitat suitability and regional records.
- Barn Swallow (MI) – likely occasional presence during non-breeding season.
- Yellow Wagtail (MI) – expected to occur occasionally based on local and regional records.
- Northern Brush-tailed Possum (VU) – likely to occur in closed canopy habitats across the footprint area.

Fork-tailed Swift

The Fork-tailed Swift is commonly found across coastal and subcoastal regions, inhabiting diverse environments ranging from open inland plains to wooded areas. Although it does not breed in Australia, it is almost entirely aerial in its behaviour (DoE, 2025a). Within the Fitzroy Trough subregion, there are 10 records of this species in the DBCA database. It was observed flying low above the application area, near the existing power station (GHD, 2024). The species likely traverses the area during its non-breeding season, rarely landing. However, it may occasionally land across all habitat types within the application area—mixed tall closed woodland sandplain, mixed tall open shrubland sandplain, and open Eucalypt woodland—for foraging. Noting this, the footprint area may provide supporting habitat for this species.

Oriental Cuckoo

In Australia, the Oriental Cuckoo inhabits the canopy and shrub layers of monsoon rainforests, vine thickets, wet sclerophyll forests, and open Casuarina, Acacia, or Eucalypt woodlands (BirdLife Australia, 2023b). There are four records in the DBCA database for the Fitzroy Trough subregion. One individual was recorded approximately 900 m

from the application area in mixed tall closed woodland sandplain during the GHD (2024) survey. All three habitat types within the footprint area are considered suitable foraging habitat for this species.

Northern Blue-tongue Skink

This species is distributed across Northern Australia (DCCEEW, 2023), typically occupying small, fragmented patches of cooler, moister habitat within the savannah landscape. It exhibits long periods of residency in these patches, interspersed with directional movements between them. Although not recorded in the DBCA database for the Fitzroy Trough subregion, targeted surveys by GHD (2024) documented the species approximately 1 km east of the footprint area, with three additional records—one within the footprint area, and two others 0.15 km west and 0.9 km east of the footprint area. The footprint area's habitats provide potential foraging, breeding, shelter, and dispersal habitat.

Northern Coastal Free-tailed Bat

Little is known about the ecology of this species, though it is typically associated with mangroves and coastal woodlands, roosting in tree hollows (GHD, 2024). One record exists in the DBCA database for the Fitzroy Trough subregion. Bat-call recordings from the GHD (2024) survey detected the species at 18 locations across all habitat types within the Survey Area, including two within the application area (open Eucalypt woodland and mixed tall closed woodland sandplain). Suitable roosting trees with hollows are present.

Gouldian Finch

The Gouldian Finch prefers open woodlands dominated by Eucalyptus species with a ground cover of Sorghum and other grasses (Boekel, 1980). Key habitat features include annual and perennial grasses, nearby water sources, and unburnt hollow-bearing Eucalyptus trees during the breeding season (Higgins et al., 2006). There are 76 records in the DBCA database for the Fitzroy Trough subregion. Although not recorded during the GHD (2024) survey, suitable foraging and nesting habitat exists within the footprint area.

Grey Falcon

Endemic to Australia, the Grey Falcon is typically found in arid inland regions, inhabiting Triodia grasslands, Acacia shrublands, and lightly timbered arid woodlands (Morcombe, 2004). Nine records exist in the DBCA database for the Fitzroy Trough subregion. Although not observed during the GHD (2024) survey, suitable habitat is present within the footprint area. The mixed tall woodland sandplain and open Eucalypt woodland are considered supporting foraging habitat.

Peregrine Falcon

The Peregrine Falcon is widely distributed across Australia, occupying habitats ranging from woodlands and open grasslands to coastal cliffs (Morcombe, 2004). There are 34 records in the DBCA database for the Fitzroy Trough subregion. While not recorded during the GHD (2024) survey, suitable habitat exists within the application area, and the species is known to occur locally. The mixed tall woodland sandplain and open Eucalypt woodland are considered supporting foraging habitat.

Barn Swallow

This species frequents open coastal lowlands, often near water, towns, and cities. It inhabits freshwater wetlands, Melaleuca woodlands, mesophyll shrub thickets, and tussock grasslands (DoE, 2025b). The Barn Swallow does not breed in Australia. Fourteen records exist in the DBCA database for the Fitzroy Trough subregion. Although not observed during the GHD (2024) survey, suitable habitat is present within the footprint area. The mixed tall closed woodland sandplain and open Eucalypt woodland are considered supporting foraging habitat.

Yellow Wagtail

The Yellow Wagtail prefers open areas with low vegetation, particularly short grass, and is often found near water or damp environments such as wetland edges (BirdLife, 2023a). No records exist in the DBCA database for the Fitzroy Trough subregion. Although not recorded during the GHD (2024) survey, the species is known to occur locally and regionally. The mixed tall closed woodland sandplain and open Eucalypt woodland are likely to provide supporting foraging habitat.

Northern Brushtail Possum

The Northern Brushtail Possum primarily inhabits tall open Eucalypt forests, where large hollow-bearing trees provide essential shelter (TSSC, 2021). Within the Fitzroy Trough subregion, four records of this species are listed in the DBCA database. Habitat trees with suitable hollows for nesting are present within the footprint area, particularly in the following habitat types:

- Open Eucalypt woodland – suitable for foraging, breeding, shelter, and dispersal.
- Mixed tall closed woodland sandplain – suitable for foraging, breeding, shelter, and dispersal.

A total of 12 habitat trees with appropriate hollows have been recorded within these habitat types in the application area.

The vegetation within the footprint area may contain suitable habitat for the above conservation significant fauna. However, these species are known to occupy larger areas. Although the footprint area may provide habitat for them, it is not considered significant for the survival of the species. To mitigate the potential impacts on four roosting/nesting trees, the applicant will be required under the conditions of the clearing permit to engage a suitable consultant to undertake pre-clearance fauna survey of the nesting trees. On this basis, the proposed clearing is unlikely to have significant impacts on foraging, roosting and/or nesting habitat for the above-mentioned species.

Conclusion
The application area does not contain native vegetation which provides significant habitat for conservation significant fauna. The impacts of the proposed clearing on fauna habitats can be managed by taking steps to minimise the risk of the introduction and spread of weeds, slow directional clearing to allow fauna to move into adjacent vegetation, pre-clearance surveys and rehabilitate temporary cleared areas.

Conditions
To address the above impacts, the following management measures will be required as conditions on the clearing permit:

- Pre-clearance fauna surveys by qualified personnel
- directional clearing to allow fauna to move into adjacent vegetation ahead of the clearing activity
- Covering test pits and backfilling to avoid trapping fauna.
- Implement weed control measures to minimise the risk of the introduction and spread of weeds into adjacent fauna habitat.
- Revegetation of all areas cleared for temporary works upon conclusion of the purposes of the proposed clearing.

3.2.3. Riparian vegetation and land degradation - Clearing Principles (f and g)

Assessment

The vegetation association VT03 is considered riparian as it contains seasonal drainage flats and water dependent trees consisting of *Adansonia gregorii, Corymbia zygophylla, Corymbia opaca and Lysiphyllum cunninghamii.* There are no drainage lines intersecting the application area and no proposed changes to existing drainage lines, however the proposed clearing will result in up to 2.6 ha of riparian vegetation (trees) within the footprint area to be removed that are in areas with a seasonal higher groundwater.

The footprint area intersects soils that may be susceptible to wind and water erosion. It is noted that the proposed development envelope is adjacent to existing cleared areas and that the nature of the proposed clearing involves long corridors and clearing of smaller areas for placement of the solar farm. The commitment of the applicant is to incorporate standard construction management measures to minimise soil erosion and sedimentation because of the initial ground disturbance.

Conclusion
The proposed clearing will result in the loss of vegetation growing in or associated with an environment with a seasonal high groundwater, and the proposed clearing may facilitate the spread of invasive weeds into adjacent retained vegetation in the local area. Given that the develop envelope is an area that contains no drainage lines and that the clearing is either small, linear in nature or adjacent to remnant vegetation. Any clearing will unlikely cause appreciable land degradation that will affect present and future use of the land.

For the reasons set out above, it is considered that the impacts of the proposed clearing on riparian vegetation and erosion prone soil can be minimised to ensure the landscape is not permanently impacted. It is considered that the impacts of the proposed clearing can be managed to be environmentally acceptable by staged clearing condition when the permit holder will be allowed to clear native vegetation if the proposed construction works commence within three months of clearing activities.

Conditions

To address the above impacts, the following management measures will be required as conditions on the clearing permit:

- Commencement of construction within three months of clearing activities
- Weed control to ensure protocols are put in place to limit the introduction and transportation of weed-affected materials.

3.3. Relevant planning instruments and other matters

On 12 September 2025, DWER's North West team advised that the proposed clearing is unlikely to result in any significant increase in impacts to water resources.

On 16 September 2025, DWER's Contaminated Branch advised that the potential to encounter contamination within most of the roposed clearing area is expected to be low (DWER, 2025b).

On 28 August and 11 November 2025, DWER requested advice on the proposed activities from The Shire of Derby-West Kimberley. No response was received.

Several Aboriginal sites of significance have been mapped within the application area. It is the permit holder's responsibility to comply with the *Aboriginal Heritage Act 1972* (WA) and ensure that no Aboriginal Sites of Significance are damaged through the clearing process.

End

Appendix A. Details of public submissions

Summary of comments	Consideration of comment
To ensure responsible planning and regulatory compliance the following summarises two public responses. Submission 1 DWER Ref A001 1. Request clearly define and publicly clarify the referral area of where native vegetation will be cleared. 2. Exclude Site A (part of the Boab Prison Tree heritage precinct near Myalls Bore and Frostys Pool) from any clearing or infrastructure development to protect its ecology, visual amenity, heritage, and tourism value. 3. Prioritise site selection on previously cleared land with minimal heritage or ecological constraints, such as Site B within the Knowsley Agricultural Area.	The applicant applied for a purpose permit which allows for clearing of smaller areas in larger development envelopes to provide extra flexibility if unexpected operational challenges are encountered, significant environmental or heritage values identified, or if further site investigations are required to determine the most suitable location. This allows the applicant to avoid areas with significant heritage and ecological values, such as Site A and Site B. The department also noted the applicant's advice that the proposed activities will not directly impact two State Heritage sites listed on the municipal inventory which occur within the clearing envelope (Frosty Pool and Holman House) and that any potential indirect impacts will be managed through the project's Environmental Management Plan. In its assessment the department considered environmental and heritage values within the entire clearing envelope. As detailed throughout the decision report, the department's assessment concluded that the proposed clearing is unlikely to lead to unacceptable environmental impacts. Given the findings of the assessment, the department advised the applicant of their responsibilities under the *Aboriginal Heritage Act 1972.*
Submission 2 DWER Ref A002 1. No clearing permit should be granted unless the Department is satisfied that all requirements of the *Aboriginal Heritage Act 1972* (AHA) have been met, including due diligence and avoidance of unlawful disturbance of sites; and 2. Any permit must also be subject to full compliance with the *Native Title Act 1993* Cth (NTA), including the provision of future act notices and the observance of procedural rights.	In the assessment the department noted the presence of three Aboriginal Heritage sites within the clearing envelope: • Registered Site 12392: Ritual/Ceremonial • Registered Site 12393: Ritual/Ceremonial; Creation/Dreaming Narrative; and • Lodged Site 14617: Artefacts/Scatter; Repository/Storage Place. The department also noted the applicant's commitment to conduct a cultural heritage survey to confirm site locations and ensure avoidance of known heritage values. The department also noted that the applicant has an Aboriginal Cultural Heritage Management Policy that commits to avoiding impacts on Aboriginal heritage wherever possible and that a Heritage Protection Plan will be developed based on survey outcomes to safeguard cultural values. Based on the above, the department was satisfied with the applicant's measures to comply with the requirements of the *Aboriginal Heritage Act 1972*. Nevertheless, the department reminded the applicant of their ongoing obligations under this act.

Summary of comments	Consideration of comment
	In relation to the compliance with the *Native Title Act 1993* Cth, the department noted the applicant's advice that the clearing envelope overlaps two registered native title claims—Booroola Moorrool Morrool and Warrwa Combined. Although no determinations have been made, the proposed project may affect native title rights due to the need for formal land tenure. The current tenure is freehold, which is inconsistent with native title interests. The network connection route lies within a road corridor, increasing the likelihood of native title presence. The department advised the applicant that it is their responsibilities to comply with the provisions of *Native Title Act 1993.*

Appendix B. Site characteristics

B.1. Site characteristics

Characteristic	Details
Local context	The area proposed to be cleared is part of an expansive tract of native vegetation in the outskirts of the town of Derby, including urban and semi-rural land use zones and intertidal areas. It is partly surrounded by urban and semi-rural housing the Derby airport and estuarine coastal mud flats. The proposed clearing is part of a large area of vegetation that surrounds the town in the southeast. Aerial imagery indicates the local area (10-kilometre radius from the centre of the area proposed to be cleared) retains approximately 80 per cent of the original native vegetation cover.
Ecological linkage	The proposed area is not part of a significant ecological linkage.
Conservation areas	There are no Department of Biodiversity, Conservation and Attractions (DBCA) managed lands within the proposed footprint area. The closest environmental sensitive area (Big Springs) is located 48 km northeast of the proposed footprint area.
Vegetation description	The footprint area is in the IBRA Dampierland bioregion and the Fitzroy Trough sub-region. The footprint area is located within Pre-European Vegetation Associations 764 (characterised as pindan with low trees) and 127 (tidal mudflats). More than 95% of these vegetation associations remain at the state, bioregion, subregion and local government authority (LGA) scale. This is consistent with the three mapped vegetation types over the footprint area (development area) with the remainder of the footprint area recorded as cleared (GHD, 2024): 1. VT02 - open woodland of *Corymbia dichromophloia*, *Adansonia gregorii* and *Lysiphyllum cunninghamii* over open shrubland (where more recently burnt) or tree form *of Acacia tumida* var. *kulparn* over open shrubland of *Alstonia linearis*, *Dodonaea hispidula* and *Brachychiton diversifolius* subsp. *diversifolius* over open tussock grassland of *Chrysopogon fallax*, *Eriachne obtusa* and *Aristida hygrometrica* over open forbland of *Trichodesma zeylanicum* var. *latisepaleum*, *Trianthema pilosum* and *Microstachys chamaelea* on light brown sandplain comprising 234.1 hecatres in the footprint area. 2. VT03 - open woodland of *Adansonia gregorii*, *Corymbia zygophylla* and *Corymbia opaca* over open woodland of *Lysiphyllum cunninghamii*, *Hakea arborescens* and *Melaleuca cajuputi* subsp. *cajuputi* over shrubland of *Flueggea virosa* subsp. *melanthesoides*, *Terminalia canescens* and *Calytrix exstipulata* over mixed open

Characteristic	Details
	forbland of *Jasminum molle*, *Drosera derbyensis*, *Ptilotus polystachyus* and *Waltheria indica* on light brown sandy loam seasonal drainage flats, comprising of 2.6 hectares in the footprint area. 3. VT04 - open woodland of *Adansonia gregorii*, *Corymbia dichromophloia* and *Corymbia zygophylla* over open woodland of *Lysiphyllum cunninghamii*, *Gyrocarpus americanus* subsp. *americanus* and *Hakea arborescens* over mixed shrubland of *Acacia monticola*, *Acacia tumida* var. *kulparn*, *Calytrix exstipulata* and *Flueggea irosa* subsp. *elanthesoides* over open hummock grassland of *Triodia caelestialis* over open tussock grassland of *Eriachne obtusa* and *Chrysopogon fallax* over mixed open forbland of *Solanum cunninghamii*, *Melhania oblongifolia*, *Waltheria indica* and *Trichodesma zeylanicum* var. *latisepaleum* on light brown sandy loam plains, comprising of 29.6 hectares if the development area. Noting that VT03 is riparian vegetation, since it contains seasonal drainage flats. The vegetation unit also contains trees of *Adansonia gregorii*, *Corymbia zygophylla*, *Corymbia opaca* and *Lysiphyllum cunninghamii*. There is 2.6 hectare of riparian vegetation within the footprint area. 4. Planted native trees over weeds comprising of 2.9 hectares within the footprint area. 5. Scattered natives over weeds comprising of 3.3 hectares within the footprint area.
Vegetation condition	Vegetation survey conducted by GHD (2024) indicated the vegetation within the proposed clearing area is in very good to completely degraded condition with the remainder (35.94 hectares) not assessed as it was already cleared. Trudgen, 1991 was referenced to describe the vegetation condition within the footprint area as: • Very Good – 233.8 ha • Good – 15.8 ha • Degraded – 15.5 ha • Completely Degraded – 6.5 ha The full Trudgen (1991) condition rating scale is provided in Appendix D. Representative photos of mapping are available in 0.
Climate and landform	Derby, is in the Kimberley region of Western Australia, and has a tropical savanna climate (Köppen classification BSh), characterised by distinct wet and dry seasons. Annual rainfall average is 704 mm, with most of it falling during the wet season from December to March. The dry season is from May to October, where rainfall is minimal [www.bom.gov.au] The Derby survey area is located within the Carpentaria and Wanganut land systems mapped by Payne and Schoknecht (2011) (DPIRD) as the following: • Carpentaria: Coastal country, bare mud flats and saline soils with halophytic vegetation • Wanganut: Sandplains and linear dunes supporting pindan woodlands with acacias and bloodwoods and curly spinifex- ribbon grass, and broad low-lying swales supporting bloodwood-grey box woodlands with curly spinifex-ribbon grass.
Soil description	The soil is mapped as Carpentaria and Wanganut land systems. The proposed clearing lots have a range of contaminated site classification under the *Contaminated Site Act 2003*. Lot 648 on Deposited Plan 209773 (remediated for restricted use) and Lot 55 on Plan 194348 (awaiting classification), and is adjacent to Lot 637 on Plan 168902 (report not substantiated) and Lots 6 and 16 on Plan 230140 (awaiting classification). Mechanical clearing is unlikely to disturb soil or groundwater. (DWER REF: A004)
Land degradation risk	The Waganut land system is generally not prone to degradation or erosion (Payne & Schoknecht, 2011) Carpentaria land system is susceptible to erosion. Mitigation measures for erosion are outlined in the EMP. DPIRD NRMInfo mapping indicated that both soil types have a 99% map unit of high to extreme for wind and water erosion.
Waterbodies	The desktop assessment and aerial imagery indicated that no permanent water bodies or drainage lines are located within the footprint area. The footprint area is within the

Characteristic	Details
	Fitzroy River Basin (Geocortex DWER, 2025). No permanent water bodies or drainage lines are located within the development envelope. The footprint area is located 1.8 km from the closest watercourse, a minor perineal watercourse, tributary of Airport Creek. There are no significant or nationally important wetlands, rivers or watercourses identified within the footprint area (Geocortex DWER 2025). There are no Ramsar wetlands near the footprint area, the closest important wetland is approximately 50 km north of the footprint area (Big Springs).
Hydrogeography	The footprint area overlaps the Derby and Canning – Kimberley Groundwater Areas proclaimed under the *Rights in Water and Irrigation Act 1914* (RIWI Act). Abstraction of water is subject to licensing requirements under the (RIWI Act) (DWER REF: A003) The footprint area overlaps the Derby Water Reserve, which is a Public Drinking Water Source Area (PDWSA).
Flora	Biological surveys (GHD 2024) over the footprint area recorded 136 flora taxa from 39 families and 91 genera (including subspecies and variants). No identified State or Commonwealth listed threatened flora taxa were recorded. No priority flora species were recorded within the footprint area. A total of two species were recorded within the survey area represent range extensions from the species current known range (GHD, 2024). These taxa include: • *Haemodorum capitatum* (the record from the survey (GHD, 2024) is the first collection for the Derby region) • *Gyrocarpus americanus* subsp. *americanus* (These records are approximately 160 km southwest from the nearest record).
Ecological communities	No State or Commonwealth listed Threatened Ecological Communities or Department of Biodiversity, Conservation and Attractions (DBCA) listed Priority Ecological Communities were recorded within the footprint area (GHD, 2024). It is noted that vegetation type VT03 consists of riparian vegetation, since it contains seasonal drainage flats. There is up to 2.6 ha of riparian vegetation within the development envelope proposed to be cleared.
Fauna	The Derby survey identified a total of 90 species, including 61 birds, 13 mammals, 14 reptiles, and 2 amphibians. Four are introduced species, including the Black Rat (*Rattus rattus*), Cat (*Felis catus*), Dog (*Canis familiaris*) and Cane Toad (*Rhinella marina*). The Cane Toad is a Declared Pest (Prohibited) under section 12 of the *BAM Act* 2007. Four significant fauna species were recorded: • Fork-tailed Swift (*Apus pacificus*) – Migratory under EPBC and BC Act • Oriental Cuckoo (*Cuculus opatus*) – Migratory under EPBC and BC Act • Northern Blue-tongue Skink (*Tiliqua scincoides intermedia)* – Critically Endangered under EPBC Act and • Priority 4 under DBCA • Northern Coastal Free-tailed Bat (*Ozimops cobourgianus*) – Priority 1 under DBCA Six fauna species listed as Threatened under the BC Act or by the DBCA are considered likely to occur: • Gouldian Finch (*Chleobia gouldiae*) – Endangered under EPBC Act and Priority 4 under DBCA • Grey Falcon (*Falco hypoleucos*) – Vulnerable under EPBC and BC Act • Peregrine Falcon (*Falco peregrinus*) – Other Specially Protected under BC Act • Barn Swallow (*Hirundo rustica*) – Migratory under EPBC and BC Act • Yellow Wagtail (*Motacilla flava*) – Migratory under EPBC and BC Act • Northern Brushtail Possum (*Trichosurus vulpecula arnhemensis*) – Vulnerable under EPBC and BC Act

B.2. Vegetation extent

	Pre-European extent (ha)	Current extent (ha)	Extent remaining (%)	Current extent in all DBCA managed land (ha)	Current proportion (%) of pre-European extent in all DBCA managed land
IBRA bioregion*					
Dampierland	8,343,944.45	8,319,879.14	99.71	142,055.31	1.70
Vegetation complex					
FITZROY SANDPLAINS_764	53,248.07	51,954.64	97.57	-	-
FITZROY SANDPLAINS_127	177,749.75	159,595.04	89.79	3,703.79	2.08
Local extent: - local area retains approximately 95% of the original extent.					

*Government of Western Australia (2019a)

B.3. Fauna analysis table

Species name	Conservation status	Suitable habitat features? [Y/N]	Suitable vegetation type? [Y/N]	Distance of closest record to survey area (km)	Are surveys adequate to identify? [Y, N, N/A]
Fork-tailed Swift (*Apus pacificus*)	Migratory EPBC Act and BC Act	Y	Y	0m	Y
Oriental Cuckoo (*Cuculus opatus*)	Migratory EPBC Act and BC Act	Y	Y	0m	Y
Northern Blue-tongue Skink (*Tiliqua scincoides intermedia)*	CR EPBC Act P4 - DBCA	Y	Y	0m	Y
Northern Coastal Free-tailed Bat (*Ozimops cobourgianus*)	P1 DBCA	Y	Y	0m	Y
Gouldian Finch (*Chleobia gouldiae*)	EN EPBC Act P4 DBCA	Y	Y	0m	Y
Grey Falcon (*Falco hypoleucos*)	VU EPBC Act and BC Act	Y	Y	0m	Y
Peregrine Falcon (*Falco peregrinus*)	OSP BC Act	Y	Y	0m	Y
Barn Swallow (*Hirundo rustica*)	Migratory EPBC Act and BC Act	Y	Y	0m	Y
Yellow Wagtail (*Motacilla flava*)	Migratory EPBC Act and BC Act	Y	Y	0m	Y
Northern Brushtail Possum (*Trichosurus vulpecula arnhemensis*)	VU EPBC Act and BC Act	Y	Y	0m	Y

B.4. Land degradation risk table

Risk categories	Wanganut system, 337Wa	Carpentaria system, 337CR_2
Wind erosion	99% of map unit has a high to extreme hazard	99% of map unit has a high to extreme hazard
Water erosion	99% of map unit has a very high to extreme hazard	99% of map unit has a very high to extreme hazard
Salinity	99% of map unit has a moderate hazard	99% of map unit has a moderate hazard
Subsurface Acidification	0% of map unit has a high susceptibility	0% of map unit has a high susceptibility
Flood risk	99% of the map unit has a moderate to high hazard	99% of the map unit has a moderate to high hazard
Water logging	99% of map unit has a moderate to very high risk	99% of map unit has a moderate to very high risk
Phosphorus export risk	99% of map unit has a high to extreme hazard	99% of map unit has a high to extreme hazard

(DPIRD, 2019)

Appendix C. Assessment against the clearing principles

Assessment against the clearing principles	Variance level	Is further consideration required?
Environmental value: biological values		
Principle (a): *"Native vegetation should not be cleared if it comprises a high level of biodiversity."* Assessment: The area proposed to be cleared contains locally and regionally significant flora, fauna, habitats, and assemblages of plants. A survey conducted within the application area recorded the presence of high value habitat for fauna and 19 habitat trees with suitable hollows. Up to 73.5 ha of native vegetation is proposed to be cleared for the proposed application area. The vegetation is well represented locally and regionally. However, based on the occurrence of high value fauna habitats, diversity of fauna species recorded, and the potential presence of priority flora species, it is considered the application may be at variance to this Principle.	Not likely to be at variance	Yes *Refer to Section 3.2.1, above.*
Principle (b): *"Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna."* Assessment: The area proposed to be cleared contains foraging, roosting, breeding, and habitat for conservation significant fauna. However, given the extent of native vegetation remaining in the local area, the potential clearing impacts on fauna are not significant.	May be at variance	Yes *Refer to Section 3.2.2, above.*
Principle (c): *"Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, threatened flora."* Assessment: The area proposed to be cleared is unlikely to contain habitat for flora species listed under the BC Act.	Not likely to be at variance	Yes *Refer to Section 3.2.1, above.*
Principle (d): *"Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a threatened ecological community."* Assessment: The areas proposed to be cleared does not contain species that can indicate a threatened ecological community. A threatened ecological community as defined in the Biodiversity Conservation Act 2016 section 5(1); or (b) any other ecological	Not likely to be at variance	No

Assessment against the clearing principles	Variance level	Is further consideration required?
community listed, designated or declared as threatened, endangered or vulnerable under or for the purposes of a written law; or (c) a listed threatened ecological community as defined in the Commonwealth Environment Act section 528. The area proposed to be cleared does not contain flora species listed under the BC Act.		
Environmental value: significant remnant vegetation and conservation areas		
Principle (e): *"Native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared."* Assessment: The extent of the mapped vegetation type in the local area is consistent with the national objectives and targets for biodiversity conservation in Australia. The vegetation proposed to be cleared is not considered to be part of a significant ecological linkage in the local area.	Not likely to be at variance	No
Principle (h): *"Native vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area."* Assessment: Given the distance to the nearest conservation area, the proposed clearing is not likely to have an impact on the environmental values of nearby conservation areas.	Not likely to be at variance	No
Environmental value: land and water resources		
Principle (f): *"Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland."* Assessment: Given that no watercourses occur within the application area, the proposed clearing is unlikely to impact on or off-site hydrology and water quality. It is noted however that water dependent (riparian) tree species are recorded within the proposed application area. Since only a small area of riparian vegetation is present, the proposed clearing is not expected to significantly affect plants near watercourses or wetlands.	At variance	Yes *Refer to Section 3.2.3, above.*
Principle (g): *"Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation."* Assessment: The mapped soils are moderately to highly susceptible to wind and water erosion. Noting the location of the application area and the condition of the vegetation, the proposed clearing is not likely to have an appreciable impact on land degradation.	May be at variance	Yes *Refer to Section 3.2.3, above.*
Principle (i): *"Native vegetation should not be cleared if the clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water."* Assessment: Given no water courses are recorded within the application area and Public Drinking Water Sources Areas (groundwater abstraction) are recorded within parts of the application area with the nearest groundwater between <5 to 48 metres below ground water, the proposed clearing is unlikely to impact surface or ground water quality.	Not likely to be at variance	No

Assessment against the clearing principles	Variance level	Is further consideration required?
Principle (j): *"Native vegetation should not be cleared if the clearing of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding."* Assessment: The mapped soils and topographic contours in the surrounding area do not indicate the proposed clearing is likely to contribute to increased incidence or intensity of flooding. Given no water courses are recorded within the application area, the proposed clearing is unlikely to contribute to waterlogging.	Not likely to be at variance	No

Appendix D. Vegetation condition rating scale

Vegetation condition is a rating given to a defined area of vegetation to categorise and rank disturbance related to human activities. The rating refers to the degree of change in the vegetation structure, density and species present in relation to undisturbed vegetation of the same type. The degree of disturbance impacts upon the vegetation's ability to regenerate. Disturbance at a site can be a cumulative effect from a number of interacting disturbance types.

Considering its location, the scale below was used to measure the condition of the vegetation proposed to be cleared. This scale has been extracted from Trudgen, M.E. (1991) *Vegetation condition scale* in National Trust (WA) 1993 Urban Bushland Policy. National Trust of Australia (WA), Wildflower Society of WA (Inc.), and the Tree Society (Inc.), Perth.

Measuring vegetation condition for the Eremaean and Northern Botanical Provinces (Trudgen, 1991)

Condition	Description
Excellent	Pristine or nearly so, no obvious signs of damage caused by human activities since European settlement.
Very good	Some relatively slight signs of damage caused by human activities since European settlement. For example, some signs of damage to tree trunks caused by repeated fire, the presence of some relatively non-aggressive weeds, or occasional vehicle tracks.
Good	More obvious signs of damage caused by human activity since European settlement, including some obvious impact on the vegetation structure such as that caused by low levels of grazing or slightly aggressive weeds.
Poor	Still retains basic vegetation structure or ability to regenerate it after very obvious impacts of human activities since European settlement, such as grazing, partial clearing, frequent fires or aggressive weeds.
Very poor	Severely impacted by grazing, very frequent fires, clearing or a combination of these activities. Scope for some regeneration but not to a state approaching good condition without intensive management. Usually with a number of weed species present including very aggressive species.
Completely degraded	Areas that are completely or almost completely without native species in the structure of their vegetation; i.e. areas that are cleared or 'parkland cleared' with their flora comprising weed or crop species with isolated native trees or shrubs.

Appendix E Photographs of the vegetation

Representative photographs of the vegetation types undertaken in the vegetation survey.

VT02 vegetation type

VT03 vegetation type

VT04 Vegetation type

Scattered natives over weeds/native herbs on road verges.

Planted native trees over weeds (maintained on road verge)

Cleared Vegetation (areas devoid of native vegetation)

Appendix F. Sources of information

F.1. GIS databases

Publicly available GIS Databases used (sourced from www.data.wa.gov.au):

- 10 Metre Contours (DPIRD-073)
- Aboriginal Heritage Places (DPLH-001)
- Aboriginal Heritage Places (DPLH-001)
- Cadastre (LGATE-218)
- Cadastre Address (LGATE-002)
- Contours (DPIRD-073)
- DBCA – Lands of Interest (DBCA-012)
- DBCA Legislated Lands and Waters (DBCA-011)
- Directory of Important Wetlands in Australia – Western Australia (DBCA-045)
- Environmentally Sensitive Areas (DWER-046)
- Flood Risk (DPIRD-007)
- Groundwater Salinity Statewide (DWER-026)
- Hydrography – Inland Waters – Waterlines
- Hydrological Zones of Western Australia (DPIRD-069)
- IBRA Vegetation Statistics
- Imagery
- Local Planning Scheme – Zones and Reserves (DPLH-071)
- Native Title (ILUA) (LGATE-067)
- Pre-European Vegetation Statistics
- Public Drinking Water Source Areas (DWER-033)
- Ramsar Sites (DBCA-010)
- Regional Parks (DBCA-026)
- Remnant Vegetation, All Areas
- RIWI Act, Groundwater Areas (DWER-034)
- RIWI Act, Surface Water Areas and Irrigation Districts (DWER-037)
- Soil Landscape Land Quality – Flood Risk (DPIRD-007)
- Soil Landscape Land Quality – Phosphorus Export Risk (DPIRD-010)
- Soil Landscape Land Quality – Subsurface Acidification Risk (DPIRD-011)
- Soil Landscape Land Quality – Water Erosion Risk (DPIRD-013)
- Soil Landscape Land Quality – Water Repellence Risk (DPIRD-014)
- Soil Landscape Land Quality – Waterlogging Risk (DPIRD-015)
- Soil Landscape Land Quality – Wind Erosion Risk (DPIRD-016)
- Soil Landscape Mapping – Best Available
- Soil Landscape Mapping – Systems

Restricted GIS Databases used:

- Threatened Flora (TPFL)
- Threatened Flora (WAHerb)
- Threatened Fauna
- Threatened Ecological Communities and Priority Ecological Communities
- Threatened Ecological Communities and Priority Ecological Communities (Buffers)

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