



1. Application details

1.1. Permit application details

Permit application No.: 269/1
Permit type: Area Permit

1.2. Proponent details

Proponent's name: Kimberley Nickel Mines Pty Ltd

1.3. Property details

Property: M80/180
M80/181

Local Government Area: Shire Of Halls Creek
Colloquial name: Sally Malay Nickel Project

1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	For the purpose of:
8		Mechanical Removal	Mining

2. Site Information

2.1. Existing environment and information

2.1.1. Description of the native vegetation under application

Vegetation Description	Clearing Description	Vegetation Condition	Comment
Vegetation Association 842 - Mosaic: Grasslands, short bunch grass savanna, low tree, Mt House box and bloodwood over enneapogon short grass / Hummock grassland, open low tree-steppe; snappy gum over T. wiseana and T. intermedia. (Hopkins et al. 2001, Shepherd et al. 2001)	Vegetation is surrounded by active mine site infrastructure and has been previously burnt. Regeneration of middle and understorey layers is occurring. Site visit - DoE officers May 2004.	Excellent: Vegetation structure intact; disturbance affecting individual species, weeds non-aggressive (Keighery 1994)	The vegetation to be cleared is in good condition, although is surrounded by active mine workings which have fragmented the vegetation in the local area. Site visit DoE officers May 2004.

3. Assessment of application against clearing principles

(a) Native vegetation should not be cleared if it comprises a high level of biological diversity.

Comments **Proposal is not likely to be at variance to this Principle**
The area to be cleared is within the Sally Malay mine project and is surrounded by mine infrastructure. It is therefore, unlikely to be of outstanding value for biological diversity.

Methodology Site visit DoE Officers

(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 indigenous to Western Australia.

Comments **Proposal is not likely to be at variance to this Principle**
As the area to be cleared is within an active mine site and has been disturbed by the installation of current mine infrastructure, it is unlikely that the vegetation provides significant habitat for fauna.

Methodology Site visit DOE Officers

(c) Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, significant flora.

Comments **Proposal is not likely to be at variance to this Principle**
There are no known Declared Rare or Priority flora species within the area to be cleared.

Methodology GIS Database: Declared Rare and Priority Flora Lists - CALM 13/08/03

(d) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of a significant ecological community.

Comments **Proposal is not likely to be at variance to this Principle**

There are no known Threatened Ecological Communities within the area under application.

Methodology GIS Database: Threatened Ecological Communities - CALM 15/7/03

(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.

Comments **Proposal is not at variance to this Principle**

The vegetation to be cleared is Beards Vegetation Association 842 (Hopkins et al. 2001) of which there is 100% of the pre-European extent remaining (Shepherd et al., 2001).

Methodology GIS Database: Pre-European Extent - DA 01/01; Hopkins et al., 2001; Shepherd et al., 2001.

(f) Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.

Comments **Proposal is not at variance to this Principle**

The vegetation to be cleared is not associated with a watercourse or wetland.

Methodology GIS Database: Hydrology, linear - DOE 1/2/04

(g) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation.

Comments **Proposal is not likely to be at variance to this Principle**

The site to be cleared will be managed as part of the mine operations, with the vegetation clearing and landscape redesign being undertaken to reduce water ponding and destruction of mine infrastructure. Vegetation and topsoil will be stockpiled for future rehabilitation activities on site (Sally Malay Nickel Project, 2004).

It is therefore unlikely that land degradation will occur as a result of the vegetation removal.

Methodology Sally Malay Nickel Project, 2004

(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.

Comments **Proposal is not at variance to this Principle**

The area is within an active mine site and is not adjacent to any conservation reserves.

Methodology GIS Database: CALM Managed Lands and Waters - 1/06/04

(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.

Comments **Proposal is not likely to be at variance to this Principle**

The clearing will be managed as part of the mine site surface water flows and it is therefore unlikely that the removal of vegetation will degrade the quality of surface water. The proposed clearing is not expected to impact on groundwater tables.

Methodology GIS Database: Public Drinking water Source Areas (PDWSAs); DOE 29/11/04

(j) Native vegetation should not be cleared if clearing the vegetation is likely to cause, or exacerbate, the incidence of flooding.

Comments **Proposal is not likely to be at variance to this Principle**

The proposed clearing and associated works are being undertaken to better manage flood waters upstream of the mine haul road. It is unlikely that the clearing combined with the flow management works will exacerbate flooding in the local area.

Methodology Sally Malay Nickel Project (2004)

Planning instrument or other matter.

Comments

The Kimberley Land Council (KLC) on behalf of Malarngowen Native Title claimants has objected to the granting of a clearing permit on the basis of cultural, environmental and native title concerns. The KLC has also objected to the process of consultation, stating that 21 days for comment on the application is not appropriate. In this case, the proponent is the holder of a mining lease that applies to the land the subject of the clearing permit. Section 85(1) of the Mining Act 1978 provides that the holder of a mining lease may 'work and mine the land in respect of which the lease was granted for any minerals' and 'do all acts and things that are necessary to effectually carry out mining operations in, on or under the land'. Therefore, the grant of a mining lease carries with it the grant of a right to mine the land and to clear vegetation for this purpose.

Although the rights granted under section 85 are subject to conditions imposed on the mining lease, the grant of the lease itself confers the right to carry out clearing for mining operations. Therefore, the grant of the mining lease is an act that affects native title by conferring rights to carry out clearing of native vegetation in accordance with the lease.

The grant of the mining lease pre-dates the grant of the clearing permit. Therefore, although the grant of the clearing permit is an 'act' under section 226 of the Native Title Act 1993, it is not an act that affects native title. Native title has already been affected by the grant of the mining lease and the grant of the clearing permit does not further affect native title.

In this particular case, the clearing the subject of CPS 180/1 is clearing for the purpose of mining operations within the area covered by the relevant mining lease.

Methodology Kimberley Land Council Submission (2004)

4. Assessor's recommendations

Purpose	Method	Applied area (ha)/ trees	Decision	Comment / recommendation
Mining	Mechanical Removal	8	Grant	The proposed clearing is to enable better management of large surface water flows that at present are 'dammed' by a mine haul road. This damming of water is both an environmental and safety concern - the road is showing signs of erosion, and large flows may weaken the road structure such that a washout occurs. The vegetation clearing is therefore necessary for maintaining the mine infrastructure in a safe and viable operating condition.

The assessing officer therefore recommends that the permit should be granted.

5. References

- Hopkins, A.J.M., Beeston, G.R. and Harvey J.M. (2001) A database on the vegetation of Western Australia. Stage 1. CALMScience after J. S. Beard, late 1960's to early 1980's Vegetation Survey of Western Australia, UWA Press.
- Keighery, BJ (1994) Bushland Plant Survey: A Guide to Plant Community Survey for the Community. Wildflower Society of WA (Inc). Nedlands, Western Australia.
- Kimberley Land Council Submission (2004) DoE TRIM ref KN 1480
- Sally Malay Nickel Project (2004) Correspondence to Department of Environment, 31 July 2004.
- Shepherd, D.P., Beeston, G.R. and Hopkins, A.J.M. (2001) Native Vegetation in Western Australia, Extent, Type and Status. Resource Management Technical Report 249. Department of Agriculture, Western Australia.