



Clearing Permit Decision Report

1. Application details

1.1. Permit application details

Permit application No.: 3129/2
Permit type: Purpose Permit

1.2. Proponent details

Proponent's name: Kimberley Diamond Company NL

1.3. Property details

Property: Mining Lease 04/372
Local Government Area: Shire of Derby-West Kimberley
Colloquial name: Ellendale 9

1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	For the purpose of:
364		Mechanical Removal	Mineral Production

1.5. Decision on application

Decision on Permit Application: Grant
Decision Date: 28 August 2014

2. Site Information

2.1. Existing environment and information

2.1.1. Description of the native vegetation under application

Vegetation Description The vegetation of the application area is broadly mapped as Beard Vegetation Association 745: shrublands, pindan; acacia shrubland with scattered low trees over spinifex (GIS Database).

Mattiske Consulting (2009) describe the vegetation of the application area as comprising the following vegetation communities:

A) Tall shrubland of *Acacia platycarpa* with emergent *Corymbia opaca*, *Corymbia cadophora* and occasional *Brachychiton diversifolius* subsp. *diversifolius* over *Sorghum stipoideum* and other Poaceae species on deep red sands of extensive flats.

D) Low Open Woodland of *Corymbia opaca*, *Corymbia cadophora*, *Eucalyptus bigalenta* with occasional *Eucalyptus tectifera* over scattered *Melaleuca nervosa*, *Sorghum stipoideum*, *Triodia pungens* and Cyperus species on lower lying broad drainage lines on paler red sand with some clays.

F) Low Open Woodland of *Lophostemon grandiflorus* subsp. *riparius* and patches of *Melaleuca nervosa* on cracking dark clay loams in small basin areas.

H) Open Grassland of *Sorghum stipoideum*, *Triodia pungens* and *Aristida inaequiglumis* with emergent *Corymbia opaca* and very occasional *Grevillea pyramidalis*, *Bauhinia cunninghamii* and *Lophostemon grandiflorus* subsp. *riparius* on hard, pale grey clays.

I) Emergent scattered *Acacia platycarpa* and *Corymbia cadophora* over *Vertilago viminalis* over dense grasses including *Sorghum stipoideum*, *Brachyachne convergens*, *Urchloa pubigera* and *Heteropogon contortus* on rock slopes of sandstone hills.

Clearing Description Ellendale 9 Project.
Kimberley Diamond Company NL (KDC) proposes to clear up to 364 hectares of native vegetation within a boundary of approximately 6,346 hectares for the purpose of mineral production. The project is located approximately 100 kilometres north west of Fitzroy Crossing within the Shire of Derby-West Kimberley.

Vegetation Condition Completely Degraded: No longer intact; completely/almost completely without native species (Keighery, 1994);
To
Very Good: Vegetation structure altered; obvious signs of disturbance (Keighery, 1994).

Comment The proposed clearing includes 141 hectares for three cells of a tailings storage facility, 105 hectares for a proposed air strip and 57 hectares for a lights stockpile. An additional 60 hectares has been requested for various projects as part of the Ellendale 9 operation: low grade stockpile extension; run of mine pad extension;

production and dewatering bore development; drainage works; E12 pipe exploration; E9 north alluvials; and tracks associated with these areas (KDC, 2009).

The vegetation condition assessment is based on Mattiske Consulting (2009) which described the condition of the vegetation surveyed in the Ellendale area as varying from very degraded to very good. Mattiske Consulting (2009) and Ninox Wildlife Consulting (2003) both noted that the vegetation within the Ellendale lease area had been subjected to extensive grazing activities and frequent fires. Mattiske Consulting (2009) noted that the impacts of the proposed mining operations are relatively minor in a local and regional context. Disturbance from previous mining exploration activity was also noted by Mattiske Consulting (2009) and several tracks run through the purpose permit application area.

Clearing permit CPS 3129/1 was granted by the Department of Mines and Petroleum on 13 August 2009 and authorised the clearing of 364 hectares of native vegetation within an area of 6,346 hectares.

3. Assessment of application against clearing principles

Comments

Kimberley Diamond Company NL has applied to amend CPS 3129/1 for the purpose of extending the permit expiry date from 12 September 2014 to 12 September 2019. The size of the area approved to clear (364 hectares) and the permit boundary remains unchanged. There are unlikely to be any additional environmental impacts associated with this amendment. Therefore, the assessment against the clearing principles is consistent with the assessment in Clearing Permit Decision Report CPS 3129/1.

Planning instrument, Native Title, Previous EPA decision or other matter.

Comments

There is one native title claim over the area under application: WC2012/004 (GIS Database). This claim has been registered with the National Native Title Tribunal on behalf of the claimant group. However, the mining tenure has been granted in accordance with the future act regime of the *Native Title Act 1993* and the nature of the act (i.e. the proposed clearing activity) has been provided for in that process, therefore, the granting of a clearing permit is not a future act under the *Native Title Act 1993*.

According to available databases, there are two registered Aboriginal Sites of Significance within the application area (GIS Database). It is the proponent's responsibility to comply with the *Aboriginal Heritage Act 1972* and ensure that no Aboriginal Sites of Significance are damaged through the clearing process.

It is the proponent's responsibility to liaise with the Department of Environment Regulation, Department of Parks and Wildlife and the Department of Water to determine whether a Works Approval, Water Licence, Bed and Banks Permit, or any other licences or approvals are required for the proposed works.

Methodology

GIS Database:
- Aboriginal Sites of Significance
- Native Title Claims – Registered with the NNTT

4. References

- KDC (2009) Supporting documentation for a clearing permit application CPS 3129/1, Broome, Western Australia.
Keighery, B.J. (1994) Bushland Plant Survey: A Guide to Plant Community Survey for the Community. Wildflower Society of WA (Inc). Nedlands, Western Australia. Mattiske Consulting (2009) 2007 and 2008 Botanical Studies of the Ellendale Minesite, unpublished report prepared for Kimberley Diamond Company, Perth, Western Australia.
Ninox Wildlife Consulting (2003) A Seasonal Vertebrate Fauna Survey of the Ellendale Project Area, unpublished report prepared for Kimberley Diamond Company, Perth, Western Australia.

5. Glossary

Acronyms:

BoM	Bureau of Meteorology, Australian Government
CALM	Department of Conservation and Land Management (now DEC), Western Australia
DAFWA	Department of Agriculture and Food, Western Australia
DEC	Department of Environment and Conservation, Western Australia
DEH	Department of Environment and Heritage (federal based in Canberra) previously Environment Australia
DEP	Department of Environment Protection (now DEC), Western Australia
DIA	Department of Indigenous Affairs
DLI	Department of Land Information, Western Australia
DMP	Department of Mines and Petroleum, Western Australia
DoE	Department of Environment (now DEC), Western Australia
DoIR	Department of Industry and Resources (now DMP), Western Australia
DOLA	Department of Land Administration, Western Australia
DoW	Department of Water
EP Act	Environmental Protection Act 1986, Western Australia
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999 (Federal Act)

GIS	Geographical Information System
ha	Hectare (10,000 square metres)
IBRA	Interim Biogeographic Regionalisation for Australia
IUCN	International Union for the Conservation of Nature and Natural Resources – commonly known as the World Conservation Union
RIWI Act	Rights in Water and Irrigation Act 1914, Western Australia
s.17	Section 17 of the Environment Protection Act 1986, Western Australia
TEC	Threatened Ecological Community

Definitions:

{Atkins, K (2005). *Declared rare and priority flora list for Western Australia, 22 February 2005*. Department of Conservation and Land Management, Como, Western Australia} :-

- P1** **Priority One - Poorly Known taxa:** taxa which are known from one or a few (generally <5) populations which are under threat, either due to small population size, or being on lands under immediate threat, e.g. road verges, urban areas, farmland, active mineral leases, etc., or the plants are under threat, e.g. from disease, grazing by feral animals, etc. May include taxa with threatened populations on protected lands. Such taxa are under consideration for declaration as 'rare flora', but are in urgent need of further survey.
- P2** **Priority Two - Poorly Known taxa:** taxa which are known from one or a few (generally <5) populations, at least some of which are not believed to be under immediate threat (i.e. not currently endangered). Such taxa are under consideration for declaration as 'rare flora', but are in urgent need of further survey.
- P3** **Priority Three - Poorly Known taxa:** taxa which are known from several populations, at least some of which are not believed to be under immediate threat (i.e. not currently endangered). Such taxa are under consideration for declaration as 'rare flora', but are in need of further survey.
- P4** **Priority Four – Rare taxa:** taxa which are considered to have been adequately surveyed and which, whilst being rare (in Australia), are not currently threatened by any identifiable factors. These taxa require monitoring every 5–10 years.
- R** **Declared Rare Flora – Extant taxa (= Threatened Flora = Endangered + Vulnerable):** taxa which have been adequately searched for, and are deemed to be in the wild either rare, in danger of extinction, or otherwise in need of special protection, and have been gazetted as such, following approval by the Minister for the Environment, after recommendation by the State's Endangered Flora Consultative Committee.
- X** **Declared Rare Flora - Presumed Extinct taxa:** taxa which have not been collected, or otherwise verified, over the past 50 years despite thorough searching, or of which all known wild populations have been destroyed more recently, and have been gazetted as such, following approval by the Minister for the Environment, after recommendation by the State's Endangered Flora Consultative Committee.

{Wildlife Conservation (Specially Protected Fauna) Notice 2005} [Wildlife Conservation Act 1950] :-

- Schedule 1** **Schedule 1 – Fauna that is rare or likely to become extinct:** being fauna that is rare or likely to become extinct, are declared to be fauna that is need of special protection.
- Schedule 2** **Schedule 2 – Fauna that is presumed to be extinct:** being fauna that is presumed to be extinct, are declared to be fauna that is need of special protection.
- Schedule 3** **Schedule 3 – Birds protected under an international agreement:** being birds that are subject to an agreement between the governments of Australia and Japan relating to the protection of migratory birds and birds in danger of extinction, are declared to be fauna that is need of special protection.
- Schedule 4** **Schedule 4 – Other specially protected fauna:** being fauna that is declared to be fauna that is in need of special protection, otherwise than for the reasons mentioned in Schedules 1, 2 or 3.

{CALM (2005). *Priority Codes for Fauna*. Department of Conservation and Land Management, Como, Western Australia} :-

- P1** **Priority One: Taxa with few, poorly known populations on threatened lands:** Taxa which are known from few specimens or sight records from one or a few localities on lands not managed for conservation, e.g. agricultural or pastoral lands, urban areas, active mineral leases. The taxon needs urgent survey and evaluation of conservation status before consideration can be given to declaration as threatened fauna.
- P2** **Priority Two: Taxa with few, poorly known populations on conservation lands:** Taxa which are known from few specimens or sight records from one or a few localities on lands not under immediate threat of habitat destruction or degradation, e.g. national parks, conservation parks, nature reserves, State forest, vacant Crown land, water reserves, etc. The taxon needs urgent survey and evaluation of conservation status before consideration can be given to declaration as threatened fauna.
- P3** **Priority Three: Taxa with several, poorly known populations, some on conservation lands:** Taxa which are known from few specimens or sight records from several localities, some of which are on lands not under immediate threat of habitat destruction or degradation. The taxon needs urgent survey and evaluation of conservation status before consideration can be given to declaration as threatened fauna.
- P4** **Priority Four: Taxa in need of monitoring:** Taxa which are considered to have been adequately surveyed, or for which sufficient knowledge is available, and which are considered not currently threatened or in need of special protection, but could be if present circumstances change. These taxa are usually represented on conservation lands.
- P5** **Priority Five: Taxa in need of monitoring:** Taxa which are not considered threatened but are subject to a

specific conservation program, the cessation of which would result in the species becoming threatened within five years.

Categories of threatened species (*Environment Protection and Biodiversity Conservation Act 1999*)

- EX** **Extinct:** A native species for which there is no reasonable doubt that the last member of the species has died.
- EX(W)** **Extinct in the wild:** A native species which:
(a) is known only to survive in cultivation, in captivity or as a naturalised population well outside its past range; or
(b) has not been recorded in its known and/or expected habitat, at appropriate seasons, anywhere in its past range, despite exhaustive surveys over a time frame appropriate to its life cycle and form.
- CR** **Critically Endangered:** A native species which is facing an extremely high risk of extinction in the wild in the immediate future, as determined in accordance with the prescribed criteria.
- EN** **Endangered:** A native species which:
(a) is not critically endangered; and
(b) is facing a very high risk of extinction in the wild in the near future, as determined in accordance with the prescribed criteria.
- VU** **Vulnerable:** A native species which:
(a) is not critically endangered or endangered; and
(b) is facing a high risk of extinction in the wild in the medium-term future, as determined in accordance with the prescribed criteria.
- CD** **Conservation Dependent:** A native species which is the focus of a specific conservation program, the cessation of which would result in the species becoming vulnerable, endangered or critically endangered within a period of 5 years.

Principles for clearing native vegetation:

- (a) Native vegetation should not be cleared if it comprises a high level of biological diversity.
- (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.
- (c) Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, rare flora.
- (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.
- (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.
- (f) Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.
- (g) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation.
- (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.
- (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.
- (j) Native vegetation should not be cleared if clearing the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.