 Clearing Permit Decision Report

# Application details

## Permit application details

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| **Permit application No.:** | 6284/3 |
| **Permit type:** | Purpose Permit |

## Proponent details

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| **Proponent’s name:** | **Donald Kimberley North** |

## Property details

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| **Property:** | Mining Lease 45/1195 |
| **Local Government Area:** | Town of Port Hedland |
| **Colloquial name:** |  |

## Application

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| **Clearing Area (ha)** | **No. Trees** | **Method of Clearing** | **For the purpose of:** |
| 195.86 |  | Mechanical Removal | Sand Mining |

## Decision on application

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| **Decision on Permit Application:** | Grant |
| **Decision Date:** | 14 December 2017 |

# Site Information

## Existing environment and information

### Description of the native vegetation under application

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| **Vegetation Description** | Beard vegetation associations have been mapped for the whole of Western Australia and are useful to look at vegetation in a regional context. Two Beard vegetation associations have been mapped within the application area:  **589:** Mosaic: Short bunch grassland - savannah / grass plain (Pilbara) / Hummock grasslands, grass steppe; soft spinifex; and  **619:** Medium woodland; river gum (*Eucalyptus camaldulensis*).  A flora and vegetation survey was conducted over the application area by West Ecology in September 2011 (West Ecology, 2011). Seven vegetation types were identified within the application area;  19: Low shrubland of *Triumfetta chaetocarpa* and *Corchorus ?incanus* subsp. *incanus* over open tussock grasslands on natural levee banks of the Turner River;  20: Low scattered shrubs of *Triumfetta chaetocarpa* over open tussock grasslands on plains;  21: Open shrubland of *Acacia colei* var *colei* and *Acacia inaequilatera* over hummock grassland on plains;  22: Scattered low trees of *Eucalyptus camaldulensis* var *obtusa* over high open shrubland of Acacia species  and open hummock grassland in riverbanks of the Turner River;  23: Woodland of *Eucalyptus camaldulensis* var *obtusa* and *Melaleuca argentea* over open tussock grassland  on riverbanks of the Turner River;  24: Low open woodland of *Eucalyptus camaldulensis* var *obtusa* and *Melaleuca argentea* over high shrubland  of *Acacia ampliceps* in riverbeds of the Turner River; and  25: Low open woodland of *Melaleuca argentea* in riverbeds of the Turner River. |
| **Clearing Description** | Donald Kimberley North proposes to clear up to 213.10 hectares of native vegetation within a total boundary of approximately 215.95 hectares, for the purpose of sand mining. The project is located approximately 24.7 kilometres south-west of Port Hedland, in the Town of Port Hedland. |
| **Vegetation Condition** | Very Good: Vegetation structure altered; obvious signs of disturbance (Keighery, 1994). |
| **Comment** | The flora and vegetation survey was conducted over the whole of Mining Lease 47/1195. The application area covers more than half of this tenement. Vegetation condition has been converted to the Keighery scale (1994) by the assessing officer based on the flora and vegetation survey conducted by West Ecology (2011).  Vegetation is degraded outside the application boundary, where three tracks have been partially cleared for recreational use and a power line (West Ecology, 2011). The proponent has advised that these existing tracks are not suitable for use during mining operations given the proximity to active power lines and the potential for interference with recreational vehicles.  Clearing Permit CPS 6284/1 was granted by the Department of Mines and Petroleum on 13 November 2014 and authorised the clearing of up to 120.9 hectares. On 24 November 2015 Donald Kimberley North applied to increase the area authorised to clear by 21.37 hectares to a total of 142.27 hectares. The clearing permit boundary was increased to the same amount.  Clearing permit CPS 6284/2 has been applied to be amended to increase the amount of clearing authorised to 213.10 hectares and increase the permit boundary to approximately the same amount. As a result of the addition of Condition 4 to the permit, the amount of clearing authorised will be reduced from the 213.10 hectares applied for to 195.86 hectares. |

# Assessment of application against clearing principles

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| **Comments** |  |
|  | The permit holder has applied to increase both the amount of clearing authorised and permit boundary by approximately 70.83 hectares to 213.10 hectares.  The vegetation within the additional areas included were all present within the previous permit boundary (West Ecology, 2011). The majority of the vegetation of the additional area has been mapped as vegetation type 21 (West Ecology, 2011). None of the vegetation types within the additional area have been identified as being a Threatened or Priority Ecological Community (West Ecology, 2011; GIS Database). The vegetation within the permit area is not considered a remnant locally or regionally (GIS Database).  There are no records of any Threatened or Priority flora within the permit area (West Ecology, 2011; GIS Database). The additional area is not likely to contain habitat suitable for any Threatened flora species known from the Pilbara bioregion (Western Australian Herbarium, 2017). There are records of over 20 species of Priority flora within 20 kilometres of the permit area, however, given no records have been previously recorded, it is not likely that the additional clearing will have a significant impact on habitat for Priority flora in the local area (Department of Parks and Wildlife, 2017; West Ecology, 2011; GIS Database).  The majority of the additional areas are associated with plains adjacent to the Turner River (GIS Database). This habitat is common the region and is not likely to represent significant fauna habitat. The previous amendment CPS 6284/2 included islands of riparian vegetation within the Turner River itself. These areas were identified as an important fauna refuge and a restrictive clearing condition to prevent the clearing of large trees from within the river and vegetation within the drip-line of these trees, was placed on the permit. Advice was received from Department of Water (now Department of Water and Environmental Regulation) in relation to the expansion of sand mining operations within Turner River. The advice indicated that the riparian islands may be valuable riparian habitat and recommend that the full extent of these areas is excluded from mining activities (Department of Water, 2016a; 2016b). This advice was not received and considered as part of the assessment of CPS 6284/2 and the conditions for managing impacts to the riparian vegetation has been reviewed in light of this advice. Given the potential impacts from erosion and to fauna habitat, it is considered that further exclusion of clearing within the vegetated islands is required to minimise impacts on the environmental values of the Turner River.  The majority of the additional area is located on the plains adjacent to the Turner River and will not involve any additional clearing of riparian vegetation (West Ecology, 2011). An access road through the riparian vegetation to the river bed was cleared outside of the current permit boundary. The permit boundary has been amendment to move the access into the river to cover the current access point. Therefore, the proposed amendment will not increase the amount of clearing of riparian vegetation on the banks of the Turner River. The vegetated islands in the river bed are also significant riparian areas. Riparian areas are important in reducing erosion of areas from wind and water. Imagery of the area shows that the vegetation of the islands has been present within the river channel since at least 1972, indicating that they are a significant long term feature of the river channel. Advice from Department of Water (2016) is that these islands should be excluded from mining activities as changes to the river flow may increase erosion and result in changes in river channels that could extend outside of the permit area.  The majority of the permit area is comprised of the river land system (GIS Database). The additional areas also include areas of the mallina land system (GIS Database). The river land system is highly susceptible to erosion if vegetation cover is removed and alluvial plains within the mallina land system are moderately to highly susceptible to erosion if vegetative cover is seriously depleted (Van Vreeswyk et al., 2004).  The application area has been assessed against the clearing principles, planning instruments and other matters in accordance with s.51O of the *Environmental Protection Act 1986*, and the proposed clearing is at variance to Principle (f), may be at variance to Principles (b) and (g), is not likely to be at variance to Principles (a), (c), (d), (g), (h), (i) and (j) and is not at variance to Principle (e). |
| **Methodology** | Department of Parks and Wildlife (2017)  Department of Water (2016a)  Department of Water (2016b)  Van Vreeswyk et al. (2004)  West Ecology (2011)  Western Australian Herbarium (2017)  GIS Database:  - DPaW Tenure  - Hydrography, Linear  - Imagery  - Landsystem Rangelands  - Pre-European Vegetation  - Threatened and Priority Flora  - Threatened and Priority Ecological Communities boundaries  - Threatened and Priority Ecological Communities buffered  - Threatened Fauna |

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

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| **Comments** |  |
|  | There is a transmission line tower located on one of the vegetated islands within the Turner River. This tower is not within the permit boundary (GIS Database). There is uncertainty if the removal of the vegetation from the islands will increase erosion and modify flow regimes in the area surrounding the tower and whether it may be impacted or require additional protective measures as a result.  There is one native title claim over the area under application (WC1999/003) (Department of Planning, Lands and Heritage, 2017). 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*.  There are no registered Aboriginal Sites of Significance within the application area (Department of Planning, Lands and Heritage, 2017). 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 Water and Environmental Regulation and the Department of Biodiversity Conservation and Attractions, to determine whether a Works Approval, Water Licence, Bed and Banks Permit, or any other licences or approvals are required for the proposed works.  The application was advertised on 9 May 2016 by the Department of Mines and Petroleum (now Department of Mines, Industry Regulation and Safety) inviting submissions from the public. The application was readvertised on the 19 September 2016 due to a change in the permit boundary being applied for. No submissions were received in relation to this application. |
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| **Methodology** | Department of Planning, Lands and Heritage (2017)  GIS Database:  - Imagery |

# References

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| Department of Parks and Wildlife (2017) NatureMap, Department of Parks and Wildlife (now Department of Biodiversity Conservation and Attractions) <http://naturemap.dpaw.wa.gov.au> Accessed 26 September 2017.  Department of Planning, Lands and Heritage (2017) Aboriginal Heritage Enquiry System. Department of Planning, Lands and Heritage. <http://maps.daa.wa.gov.au/AHIS/> (Accessed 26 September 2017).  Keighery, B.J. (1994) Bushland Plant Survey: A Guide to Plant Community Survey for the Community. Wildflower Society of WA (Inc). Nedlands, Western Australia.  Van Vreeswyk, A.M.E.; Payne, A.L.; Leighton, K.A.; Hennig, P. (2004) An inventory and condition survey of the Pilbara Region, Western Australia, Technical Bulletin No. 92 Department of Agriculture Western Australia, South Perth.  Western Australian Herbarium (2017) FloraBase - The Western Australian Flora. Department of Biodiversity Conservation and Attractions. http://florabase.dpaw.wa.gov.au/ (Accessed 26 September 2017). |

# Glossary

**Acronyms:**

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| **BoM** | Bureau of Meteorology,Australian Government |
| **DAA** | Department of Aboriginal Affairs, Western Australia |
| **DAFWA** | Department of Agriculture and Food, Western Australia |
| **DEC** | Department of Environment and Conservation, Western Australia (now DPaW and DER) |
| **DEE** | Department of the Environment and Energy, Australian Government |
| **DER** | Department of Environment Regulation, Western Australia |
| **DMP** | Department of Mines and Petroleum, Western Australia |
| **DRF** | Declared Rare Flora |
| **DoE** | Department of the Environment, Australian Government (now DEE) |
| **DoW** | Department of Water, Western Australia |
| **DPaW** | Department of Parks and Wildlife, Western Australia |
| **DSEWPaC** | Department of Sustainability, Environment, Water, Population and Communities (now DEE) |
| **EPA** | Environmental Protection Authority, Western Australia |
| **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 |
| **PEC** | Priority Ecological Community, Western Australia |
| **RIWI Act** | *Rights in Water and Irrigation Act 1914*, Western Australia |
| **TEC** | Threatened Ecological Community |

**Definitions:**

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| **{DPaW (2015) Conservation Codes for Western Australian Flora and Fauna. Department of Parks and Wildlife, Western Australia}:-** | |
| **T** | **Threatened species:**  Published as Specially Protected under the *Wildlife Conservation Act 1950,* listed under Schedules 1 to 4 of the Wildlife Conservation (Specially Protected Fauna) Notice for Threatened Fauna and Wildlife Conservation (Rare Flora) Notice for Threatened Flora (which may also be referred to as Declared Rare Flora).  ***Threatened fauna*** is that subset of ‘Specially Protected Fauna’ declared to be ‘likely to become extinct’ pursuant to section 14(4) of the Wildlife Conservation Act.  ***Threatened flora*** is flora that has been declared to be ‘likely to become extinct or is rare, or otherwise in need of special protection’, pursuant to section 23F(2) of the Wildlife Conservation Act.  The assessment of the conservation status of these species is based on their national extent and ranked according to their level of threat using IUCN Red List categories and criteria as detailed below. |
| **CR** | **Critically endangered species**  Threatened species considered to be facing an extremely high risk of extinction in the wild. Published as Specially Protected under the *Wildlife Conservation Act 1950,* in Schedule 1 of the Wildlife Conservation (Specially Protected Fauna) Notice for Threatened Fauna and Wildlife Conservation (Rare Flora) Notice for Threatened Flora. |
| **EN** | **Endangered species**  Threatened species considered to be facing a very high risk of extinction in the wild. Published as Specially Protected under the *Wildlife Conservation Act 1950,* in Schedule 2 of the Wildlife Conservation (Specially Protected Fauna) Notice for Threatened Fauna and Wildlife Conservation (Rare Flora) Notice for Threatened Flora. |
| **VU** | **Vulnerable species**  Threatened species considered to be facing a high risk of extinction in the wild. Published as Specially Protected under the *Wildlife Conservation Act 1950,* in Schedule 3 of the Wildlife Conservation (Specially Protected Fauna) Notice for Threatened Fauna and Wildlife Conservation (Rare Flora) Notice for Threatened Flora. |
| **EX** | **Presumed extinct species**  Species which have been adequately searched for and there is no reasonable doubt that the last individual has died. Published as Specially Protected under the *Wildlife Conservation Act 1950,* in Schedule 4 of the Wildlife Conservation (Specially Protected Fauna) Notice for Presumed Extinct Fauna and Wildlife Conservation (Rare Flora) Notice for Presumed Extinct Flora. |
| **IA** | **Migratory birds protected under an international agreement**  Birds that are subject to an agreement between the government of Australia and the governments of Japan (JAMBA), China (CAMBA) and The Republic of Korea (ROKAMBA), and the Bonn Convention, relating to the protection of migratory birds. Published as Specially Protected under the *Wildlife Conservation Act 1950,* in Schedule 5 of the Wildlife Conservation (Specially Protected Fauna) Notice. |
| **CD** | **Conservation dependent fauna**  Fauna of special conservation need being species dependent on ongoing conservation intervention to prevent it becoming eligible for listing as threatened. Published as Specially Protected under the *Wildlife Conservation Act 1950,* in Schedule 6 of the Wildlife Conservation (Specially Protected Fauna) Notice. |
| **OS** | **Other specially protected fauna**  Fauna otherwise in need of special protection to ensure their conservation. Published as Specially Protected under the *Wildlife Conservation Act 1950,* in Schedule 7 of the Wildlife Conservation (Specially Protected Fauna) Notice. |
| **P** | **Priority species**  Species which are poorly known; or  Species that are adequately known, are rare but not threatened, and require regular monitoring. Assessment of Priority codes is based on the Western Australian distribution of the species, unless the distribution in WA is part of a contiguous population extending into adjacent States, as defined by the known spread of locations. |
| **P1** | **Priority One - Poorly-known species:**  Species that are known from one or a few locations (generally five or less) which are potentially at risk. All occurrences are either: very small; or on lands not managed for conservation, e.g. agricultural or pastoral lands, urban areas, road and rail reserves, gravel reserves and active mineral leases; or otherwise under threat of habitat destruction or degradation. Species may be included if they are comparatively well known from one or more locations but do not meet adequacy of survey requirements and appear to be under immediate threat from known threatening processes. Such species are in urgent need of further survey. |
| **P2** | **Priority Two - Poorly-known species:**  Species that are known from one or a few locations (generally five or less), some of which are on lands managed primarily for nature conservation, e.g. national parks, conservation parks, nature reserves and other lands with secure tenure being managed for conservation. Species may be included if they are comparatively well known from one or more locations but do not meet adequacy of survey requirements and appear to be under threat from known threatening processes. Such species are in urgent need of further survey. |
| **P3** | **Priority Three - Poorly-known species:**  Species that are known from several locations, and the species does not appear to be under imminent threat, or from few but widespread locations with either large population size or significant remaining areas of apparently suitable habitat, much of it not under imminent threat. Species may be included if they are comparatively well known from several locations but do not meet adequacy of survey requirements and known threatening processes exist that could affect them. Such species are in need of further survey. |
| **P4** | **Priority Four - Rare, Near Threatened and other species in need of monitoring:**  (a) Rare. Species that are considered to have been adequately surveyed, or for which sufficient knowledge is available, and that are considered not currently threatened or in need of special protection, but could be if present circumstances change. These species are usually represented on conservation lands.  (b) Near Threatened. Species that are considered to have been adequately surveyed and that are close to qualifying for Vulnerable, but are not listed as Conservation Dependent.  (c) Species that have been removed from the list of threatened species during the past five years for reasons other than taxonomy. |

**Principles for clearing native vegetation:**

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| **(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. |