



## CLEARING PERMIT

Granted under section 51E of the Environmental Protection Act 1986

<b>Purpose permit number:</b>	CPS 713/2
<b>Permit holder:</b>	ATCO Gas Australia Pty Ltd
<b>Purpose of clearing:</b>	Maintenance of the <i>existing gas distribution network</i> , including within <i>ESAs</i> ; and prevention of danger to human life or health, or irreversible damage to a significant portion of the environment, or as a result of an accident, including within <i>ESAs</i> .
<b>Duration of permit:</b>	3 January 2010 – 3 January 2016

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**Purpose permit number:** CPS 713/2

**Permit holder:** ATCO Gas Australia Pty Ltd

**Purpose of clearing:** Maintenance of the *existing gas distribution network*, including within *ESAs*; and prevention of danger to human life or health, or irreversible damage to a significant portion of the environment, or as a result of an accident, including within *ESAs*.

**Duration of permit:** 3 January 2010 – 3 January 2016

The permit holder is authorised to clear native vegetation for the above stated purposes, subject to the conditions of this Permit.

## **PART I – TYPE OF CLEARING AUTHORISED**

### **1. Type of clearing authorised**

- (a) In accordance with this Permit, the permit holder may clear native vegetation:
- (i) to the maximum extent cleared within the previous 10 years, in order to maintain the *existing gas distribution network*;
  - (ii) in areas previously cleared in order to maintain the *existing gas distribution network*, to the following extents:
    - (A) for a building or structure – 20m from the building or structure (whether the structure is above or below ground);
    - (B) for a fence line – 5m from the fence line;
    - (C) for a vehicle track used to access the *existing gas distribution network* – 5m track width; or
    - (D) to maintain a line of sight between signs that indicate the presence of the *existing gas distribution network* - 1 m width; or
  - (iii) to prevent danger to human life or health or irreversible damage to a significant portion of the environment; or
  - (iv) as a result of an accident caused otherwise than by the negligence of the person clearing or the person who authorised the clearing.
- (b) This Permit authorises the permit holder to clear native vegetation to maintain the *existing gas distribution network* to the extent that the permit holder is not otherwise required to clear native vegetation to maintain the *existing gas distribution network* under a *written law* and to the extent that the permit holder has the power to maintain the *existing gas distribution network* under the *Energy Operators (Powers) Act 1979* or any other *written law*.

### **2. Clearing not authorised**

- (a) This Permit does not authorise the permit holder to clear native vegetation for the purpose of maintaining the *existing gas distribution network* where:
- (i) the clearing may be seriously at variance with the *clearing principles*; or
  - (ii) the maintenance of the *existing gas distribution network* is incorporated in any proposal that is referred and assessed under Part IV of the *EP Act* by the *EPA*; or

- (iii) The clearing may have a significant impact on a *matter of national environmental significance* under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- (b) If a proposal incorporating the maintenance of the *existing gas distribution network* has been *referred* to the *EPA*, this Permit does not authorise any clearing for that activity until:
  - (i) the *EPA* has given notice under section 39A(3) of the *EP Act* that it has decided not to assess the proposal; and
  - (ii) either:
    - (A) the period within which an appeal against the *EPA* 's decision may be lodged has expired without an appeal being lodged; or
    - (B) an appeal has been lodged against the *EPA* 's decision not to assess the proposal and the appeal was dismissed.
- (c) If the permit holder intends to clear native vegetation under this Permit for a proposal referred to in condition 2(b), then the permit holder must have regard to any advice or recommendations made by the *EPA* under section 39A(7) of the *EP Act*.

### **3. Application**

This Permit allows the permit holder to authorise persons, including employees, contractors and agents of the permit holder, to clear native vegetation for the purposes of this Permit subject to compliance with the conditions of this Permit.

### **4. Compliance with Assessment Sequence and Assessment Procedures**

Prior to clearing any native vegetation under condition 1(a)(i) or (ii) of this Permit, the permit holder must comply with the Assessment Sequence and the Assessment Procedures set out in Part II of this Permit.

## **PART II – ASSESSMENT SEQUENCE AND ASSESSMENT PROCEDURES**

### **5. Avoid, minimise etc clearing**

In determining the amount of native vegetation to be cleared for the purpose of maintaining the *existing gas distribution network* the permit holder must have regard to the following principles, set out in order of preference:

- (a) avoid the clearing of native vegetation;
- (b) minimise the amount of native vegetation to be cleared; and
- (c) reduce the impact of clearing on any environmental value.

### **6. Clearing in ESAs**

The permit holder must determine whether part or all of the area to be cleared:

- (a) comprises an ESA; and
- (b) is likely to cause *land degradation*; or
- (c) is likely to cause *deterioration of water quality*.

## **PART III – MANAGEMENT OF CLEARING IMPACTS**

### **7. Management Strategies**

- (a) Where the permit holder determines under condition 6 that the area to be cleared comprises an ESA and the clearing is likely to cause *land degradation* or *deterioration of water quality*, the permit holder must prepare, implement and adhere to a *management strategy* designed by an *environmental specialist*, in consultation with the Commissioner of Soil and Land Conservation, to avoid, mitigate or manage the *land degradation*, *water quality deterioration*, or flooding that triggered the permit holder's obligation to comply with this condition.
- (b) Once the permit holder has developed a *management strategy*, the permit holder must provide that *management strategy* to the CEO prior to undertaking any clearing of an area to which the *management strategy* is related, and prior to implementing the *management strategy*.

### **8. Dieback, other pathogen and weed control**

- (a) When undertaking any clearing under condition 1(a)(i) or (ii), *revegetation* and *rehabilitation*, or other activity pursuant to this Permit (other than those activities referred to in condition 1(a)(iii) or (iv)) in any part of a location that has an average annual rainfall of greater than 400 millimetres and is south of the 26<sup>th</sup> parallel of latitude, the permit holder must take the following steps to minimise the risk of introduction and spread of *dieback*:
  - (i) clean earth-moving machinery of soil and vegetation prior to entering and leaving the area to be cleared;
  - (ii) avoid the movement of soil in wet conditions;
  - (iii) if movement of soil in wet conditions is necessary, the permit holder must prepare, implement and adhere to a *dieback* management plan developed in consultation with the *Department* for minimising the spread of *dieback*;
  - (iv) ensure that no *dieback*-affected *road building materials*, *mulches* or *fill* are brought into an area that is not affected by *dieback*; and
  - (v) restrict the movement of machines and other vehicles to the limits of the areas to be cleared.
- (b) Where the permit holder considers, having regard to the advice of an *environmental specialist*, that the area to be cleared under condition 1(a)(i) or (ii) may be susceptible to a pathogen other than *dieback*, the permit holder must take appropriate steps to minimise the risk of the introduction and spread of that pathogen.
- (c) When undertaking any clearing under condition 1(a)(i) or (ii), *revegetation* and *rehabilitation*, or other activity pursuant to this Permit (other than those activities referred to in condition 1(a)(iii) or (iv)) the permit holder must take the following steps to minimise the risk of the introduction and spread of *weeds*:
  - (i) clean earth-moving machinery of soil and vegetation prior to entering and leaving the area to be cleared;
  - (ii) ensure that no *weed*-affected *road building materials*, *mulch*, *fill* or other material is brought into the area to be cleared; and
  - (iii) restrict the movement of machines and other vehicles to the limits of the areas to be cleared.

- (d) At least once in each 12 month period for the *term* of this Permit, the permit holder must remove or kill any *weeds* growing within areas cleared, *revegetated* and *rehabilitated* under this Permit where those *weeds* are likely, having regard to the advice of an *environmental specialist*, to spread to and result in environmental harm to adjacent areas of native vegetation that are in *good or better condition*.

## **9. Revegetation and rehabilitation**

Where native vegetation is cleared under condition 1(a)(iii) or 1(a)(iv) of this Permit, or upon removal of the *existing gas distribution network*, or when areas cleared of native vegetation are no longer required in order to maintain the *existing gas distribution network*, the permit holder must *revegetate* and *rehabilitate* the area that was previously cleared pursuant to this permit.

## **PART V – RECORD KEEPING AND REPORTING**

### **10. Records must be kept**

The permit holder must maintain the following records for activities done pursuant to this Permit, as relevant.

- (a) In relation to the clearing of native vegetation undertaken pursuant to condition 1(a):
- (i) the location where the clearing occurred, recorded using Geocentric Datum Australia 1994;
  - (ii) the date that the area was cleared; and
  - (iii) the size of the area cleared (in hectares).
- (b) In relation to each *management strategy* implemented:
- (i) a map showing the location of any area to which a *management strategy* has been applied in accordance with condition 7, recorded using Geocentric Datum Australia 1994;
  - (ii) a description of the *management strategy* implemented under condition 7; and
  - (iii) the size of the area to which the *management strategy* was applied under condition 7 (in hectares).
- (c) In relation to the *revegetation* and *rehabilitation* of areas:
- (i) a map showing the location of any area *revegetated* and *rehabilitated* in accordance with condition 9, recorded using Geocentric Datum Australia 1994;
  - (ii) a description of the *revegetation* and *rehabilitation* activities undertaken pursuant to condition 9; and
  - (iii) the size of the area *revegetated* and *rehabilitated* (in hectares) pursuant to condition 9.

### **11. Reporting**

- (a) The permit holder must provide to the CEO, on or before 30 June of each year, a written report of activities done by the permit holder under this Permit between 1 January and 31 December of the preceding year.



- (b) The report must set out the records required to be maintained pursuant to condition 10 of this Permit, except for those records relating to cleared areas of less than 0.5 hectares that:
- (i) do not trigger an obligation to *revegetate* or *rehabilitate* under condition 9; and
  - (ii) do not trigger an obligation to implement a *management strategy* under condition 7.

## **PART VI – INTERPRETATION AND DEFINITIONS**

### **12. Interpretation**

The following rules of interpretation apply to this Permit:

- (a) a reference to any *written law* includes a reference to that *written law* as amended, repealed or replaced from time to time; and
- (b) if a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

### **13. Severance**

It is the intent of these conditions that they shall operate so that, if a condition or part of a condition is beyond the CEO's power to impose, or is otherwise ultra vires or invalid, that condition or part of a condition shall be severed and the remainder of these conditions shall nevertheless be valid to the extent that they are within the CEO's power to impose and are not otherwise ultra vires or invalid.

### **14. Inconsistency**

- (a) The *EP Act* prevails to the extent of any inconsistency between its provisions and the conditions of this Permit.
- (b) Subject to condition 14(a), this Permit prevails to the extent of any inconsistency between its conditions (including its Schedules), and the provisions of any other document referred to in this Permit.

### **15. Definitions**

The following meanings are given to terms used in this Permit:

***clearing principles*** means the principles for clearing native vegetation set out in Schedule 5 of the *Environmental Protection Act 1986*;

***condition*** means the rating given to native vegetation using the *Keighery scale* and refers to the degree of change in the structure, density and species present in the particular vegetation in comparison to undisturbed vegetation of the same type;

***Department*** means the Western Australian Department of Environment and Conservation;

***deterioration of water quality*** includes sedimentation, turbidity, eutrophication, salinity, or any alteration of pH affecting surface water or groundwater;

***dieback*** means the effect of *Phytophthora* species on native vegetation;

**direct seeding** means a method of re-establishing vegetation through the establishment of a seed bed and the introduction of seeds of the desired plant species;

**environmental specialist** means a person who is engaged by the permit holder for the purpose of providing environmental advice, who holds a tertiary qualification in environmental science or equivalent, and has experience relevant to the type of environmental advice that an environmental specialist is required to provide under this Permit;

**EPA** means the Western Australian Environmental Protection Authority;

**EP Act** means the *Environmental Protection Act 1986*;

**ESA/s** means an environmentally sensitive area, as declared by a notice under section 51B of the *Environmental Protection Act 1986*;

**existing gas distribution network** means infrastructure, including any associated apparatus, facilities, structures, plant or equipment, for the provision of gas supply or services that is in existence at the time clearing is sought to be carried out under this Permit;

**fill** means material used to increase the ground level, or fill a hollow;

**good or better condition** means that the vegetation is in either pristine, excellent, very good or good condition according to *Keighery scale*;

**Keighery scale** means the vegetation condition scale described in *Bushland Plant Survey: A Guide to Plant Community Survey for the Community (1994)* as developed by B.J. Keighery and published by the Wildflower Society of WA (Inc). Nedlands, Western Australia;

**land degradation** includes salinity, erosion, soil acidity or waterlogging;

**management strategy** means any activity, method or approach implemented pursuant to condition 7 of this Permit;

**matter of national environmental significance** is any of the following:

- (i) a declared World Heritage property
- (ii) a national Heritage place
- (iii) a declared Ramsar site
- (iv) a listed threatened species or endangered community
- (v) a listed migratory species
- (vii) the marine environment

These terms have the same meaning as they do in the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**mulch/es** means the use of organic matter, wood chips or rocks to slow the movement of water across the soil surface and to reduce evaporation;

**planting** means the re-establishment of vegetation by creating favourable soil conditions and planting seedlings of the desired species;

***referred*** means referred to the Environmental Protection Authority under Part IV of the *Environmental Protection Act 1986*;

***regenerate/ed/ion*** means *revegetation* that can be established from in situ seed banks contained either within the topsoil or seed-bearing *mulch*;

***rehabilitate/ed/ion*** means actively managing an area containing native vegetation in order to improve the ecological function of that area;

***revegetate/ed/ion*** means the re-establishment of a cover of native vegetation in an area such that the species composition, structure and density is similar to pre-clearing vegetation types in that area, and can involve *regeneration*, *direct seeding* and/or *planting*;

***road building materials*** means rock, gravel, soil, stone, timber, boulders and water;

***term*** means the duration of this Permit, including as amended or renewed;

***written law*** has the same meaning as it is given in section 5 of the *Interpretation Act 1984*.

***weed/s*** means a species listed in Appendix 3 of the *Environmental Weed Strategy* published by the Department of Conservation and Land Management (1999), and plants declared under section 37 of the *Agricultural and Related Resources Protection Act 1976*.



M Warnock  
SENIOR MANAGER  
CLEARING REGULATION

*Officer delegated under Section 20  
of the Environmental Protection Act 1986*

11 December 2014