



Surrender Decision Report

1. Application details and outcome

1.1. Permit application details

Permit number:	CPS 8432/1
Permit type:	Purpose permit
Applicant name:	Fortescue Metals Group Ltd
Purpose of clearing:	Groundwater Investigations
Property:	Section 182 Licence under the <i>Land Administration Act 1997</i> (WA)
Location (LGA area/s):	Shire of Ashburton

1.2. Description of clearing activities to surrender

The application is to surrender clearing permit CPS 8432/1, granted on 03 July 2019, for the proposed clearing of 17.7 hectares of native vegetation within a boundary of 1,243.7 hectares, within land tenure administered under a Section 182 Licence approval under the *Land Administration Act 1997* in Mount Sheila, for the purpose of groundwater investigations.

The application is to surrender clearing permit CPS 8432/1 due to the grant of a Ministerial approval MS1108 for the Eliwana Railway Project obtained on 14 August 2019 (Ministerial Statement 1108), which entirely overlaps CPS 8432/1.

1.3. Decision on surrender and key considerations

Decision:	Surrendered
Decision date:	29 July 2022
Decision area:	17.7 hectares (ha) of native vegetation

1.4. Reasons for decision

The application to surrender clearing permit CPS 8432/1 was made in accordance with section 51MA of the *Environmental Protection Act 1986* (EP Act) and was received by the Department of Water and Environmental Regulation (DWER) on 26 November 2021.

In undertaking the assessment, the Delegated Officer had regard for the compliance with the permit conditions and ensuring that the Ministerial statement 1108 covers the areas required to be rehabilitated under CPS 8432/1. The assessment identified that the proposed surrender of clearing permit CPS 8432/1 is acceptable, noting the conditions imposed on Ministerial statement 1108.

After consideration of the available information, the Delegated Officer decided to grant the surrender to permit CPS 8432/1.

2. Assessment of surrender

2.1. Assessment

The assessment of the surrender application was assessed in reviewing the end of financial year reports submitted by the proponent to DWER for 2020 and 2021 and the Ministerial statement 1108 report.

A desktop review was undertaken to verify that the conditions under CPS 8432/1 have been correctly complied with as shown below (Table 1).

It is noted that the rehabilitation works have not been undertaken and this condition has not been complied with to date. This was clarified with the proponent who confirmed that the areas are still required for the purpose of

groundwater investigations. Additionally, the areas under CPS 8432/1 are now captured under the Ministerial Statement 1108 and the rehabilitation works will be captured under Ministerial Statement 1108. All the clearing footprint that has been undertaken under CPS 8432/1 is within the Ministerial development envelope. Condition 15 under Ministerial Statement 1108 (Closure and Rehabilitation) relates to the closure/decommissioning of the railway and associated infrastructure which will capture the clearing footprint of CPS 8432/1.

Table 1: Compliance verification with the clearing permit conditions listed under CPS 8432/1

CPS 8432/1 Clearing authorised under the following conditions	Compliance comments
1. Purpose for which clearing may be done Clearing for the purpose of groundwater investigations.	Complied. The purpose for which clearing was undertaken was groundwater investigation.
2. Land on which clearing is to be done Clearing authorised under this Permit is to be undertaken within land tenure or rights administered under Section 182 of the <i>Land Administration Act 1997</i> (WA).	Complied. Clearing undertaken within L47/799 and L47/800.
3. Area of Clearing The Permit Holder must not clear more than 17.7 hectares of native vegetation within the area hatched yellow on attached Plan 8432/1.	Complied. Refer to Fortescue Metals Group Ltd Financial Year reports for 2020 and 2021. Total clearing for the period from 2 August 2019 to 30 June 2021 is 6.33 ha, which is under the allowed 17.7 ha.
4. Period in which clearing is authorised The Permit Holder shall not clear any native vegetation after 02 August 2024.	Not applicable.
5. 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 and approval from the Permit Holder.	Complied. Clearing was authorised under the Fortescue Land Use Certificate (LUC) system which requires clearing activities to adhere to conditions of the permit. Clearing was undertaken by an authorized person and completed in compliance with the conditions of the Permit and approval from the Permit Holder.
6. Type of clearing authorised This Permit authorises the Permit Holder to clear native vegetation for activities to the extent that the Permit Holder has the right to access land under the <i>Land Administration Act 1997</i> or any other written law.	Complied. Clearing footprint located within clearing permit CPS 8432/1 boundary. Refer to Figures 1 and 2.
7. Avoid, minimise and reduce the impacts and extent of clearing In determining the amount of native vegetation to be cleared authorised under this Permit, 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.	Complied. Total clearing footprint allowed under CPS 8432/1 was 17.7 ha. Total actual clearing footprint is 6.33 ha. This represents approximately 35% of the total area that was authorised to clear under clearing permit CPS 8432/1. Existing tracks and access roads were used where possible to minimise disturbance to new ground.
8. Weed control When undertaking any clearing or other activity authorised under this Permit, the Permit Holder must take the following steps to minimise the risk of introduction and spread of weeds: (a) clean earth-moving machinery of soil and vegetation prior to entering and leaving the area to be cleared; (b) ensure that no weed-affected soil, mulch, fill or other material is brought into the area to be cleared; and (c) restrict the movement of machines and other vehicles to the limits of the areas to be cleared.	Complied. Earth-moving machinery was cleaned of soil and vegetation prior to entering and leaving the areas cleared, and as such, no weed-affected soil, mulch, fill or other material was brought into the area to be cleared. Additionally, the movement of machines and other vehicles was restricted to the limits of the areas cleared.

<p>9. Vegetation management</p> <p>(a) Where practicable the Permit Holder shall avoid clearing riparian vegetation; and</p> <p>(b) Where a watercourse is to be impacted by clearing, the Permit Holder shall maintain the existing surface flow.</p>	<p>Complied. Riparian vegetation was avoided where practicable and all existing surface flows have been maintained.</p>
<p>10. Flora management</p> <p>Where <i>Vittadinia sp.</i> Coondewanna Flats (Priority 1 flora species) have been identified and its locations provided to the CEO and retained on the Department of Water and Environmental Regulation file "DWERTV2562" as "A1775542" the Permit Holder shall ensure that:</p> <p>(i) No clearing of <i>Vittadinia sp.</i> Coondewanna Flats identified under Condition 10 occurs unless first approved by the CEO; and</p> <p>(ii) No clearing occurs within 10 meters of <i>Vittadinia sp.</i> Coondewanna Flats identified under Condition 10 occurs unless first approved by the CEO</p>	<p>Complied. No clearing of <i>Vittadinia sp.</i> Coondewanna Flats was undertaken. No clearing was undertaken within 10 meters of <i>Vittadinia sp.</i> Coondewanna Flats. Refer to Figure 4.</p>

11. Retain and spread vegetative material and topsoil

The Permit Holder shall:

(a) Retain the vegetative material and topsoil removed by clearing authorised under this Permit and stockpile the vegetative material and topsoil in an area that has already been cleared.

(b) Within 12 months following completion of clearing authorised under this Permit, revegetate and rehabilitate the areas that are no longer required for the purpose for which they were cleared under this Permit by:

i. Re-shaping the surface of the land so that it is consistent with the surrounding 5 meters of uncleared land; and

ii. Laying the vegetative material and topsoil retained under Condition 11(a)

(c) Within 4 years of laying the vegetative material and topsoil on the cleared area in accordance to

Condition 11(b) of the Permit:

i. Determine the species composition, structure and density of the area revegetated and rehabilitated; and

ii. Where, in the opinion of an environmental specialist, the composition structure and density determined under Condition 11©(i) of this Permit will not result in a similar species composition, structure and density to that of pre-clearing vegetation types in that area, revegetate the area by deliberately planting and/or direct seeding native vegetation that will result in a similar species composition, structure and density of native vegetation that will result in a similar species composition, structure and density of native vegetation to pre-clearing vegetation types in that area and ensuring only local provenance seeds and propagating material are used.

Complied. For condition (a) topsoil and vegetative material removed by clearing has been stockpiled in areas that have already been cleared.

Not compliant with condition (b) and (c). No rehabilitation or revegetation has been undertaken under clearing permit CPS 8432/1. However, this will be captured under the Ministerial Statement M1108, Conditions 15-1 to 15-3:

“ 15-1 The proponent must manage the implementation of the proposal to meet the following environmental objective:

(1) Ensure that the rail line and associated infrastructure within the rail development envelope is decommissioned and rehabilitated in an ecologically sustainable manner.

15-2 The proponent must prepare and submit a Railway Closure Plan required by condition 6-1(2), that satisfies the requirements of condition 6-2, to meet the objective required by condition 15-1.

15-3 The Railway Closure Plan must:

(1) demonstrate that areas of disturbance associated with the construction of the proposal and not required for the ongoing operation of the proposal will be rehabilitated and decommissioned in an ecologically sustainable manner;

(2) provide closure objectives and completion criteria to demonstrate that the rail line and associated infrastructure required for the ongoing operation of the proposal will be rehabilitated and decommissioned in an ecologically sustainable manner in the event that the Minister responsible for administering the Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Act 2004 gives notice that the railway is to be closed and rehabilitated.

(3) Provide a framework for the review and revision of the Railway Closure Plan at intervals determined to the satisfaction of the CEO.”

<p>12. Records to be kept</p> <p>The Permit Holder must maintain the following records for activities done pursuant to this Permit:</p> <p>(a) In relation to the clearing of native vegetation authorised under this Permit,</p> <ul style="list-style-type: none"> i. the location where the clearing occurred, recorded using a Global Position System (GPS) unit set to Geocentric Datum Australia 9994 (GDA94), expressing the geographical coordinate in Eastings and Northings; ii. the date that the area was cleared; iii. the size of the area cleared (in hectares); and iv. purpose for which clearing was undertaken. <p>(b) In relation to the revegetation and rehabilitation of areas pursuant to Condition 11 of this Permit:</p> <ul style="list-style-type: none"> v. The location of any areas revegetated and rehabilitated, recorded using a Global Positioning System (GPS) unit set to Geocentric Datum Australia 1994 (GDA94), expressing the geographical coordinates in Eastings and Northings; vi. A description of the revegetation and rehabilitated activities undertaken; the size of the area revegetated and rehabilitated (in hectares); and vii. The species composition, structure and density of revegetation and rehabilitation 	<p>Complied.</p> <p>See Figure 2 for the location of clearing undertaken between 6 December 2019 to 28 April 2020 and amounting to 3.56 ha for groundwater investigations.</p> <p>Clearing undertaken between 1 July 2020 to 30 October 2020 amounted to 2.77 ha for groundwater investigations.</p> <p>Total area cleared equals to 6.33 ha under CPS 8432/1. Refer to Figures 1 and 2.</p>
<p>13. Reporting</p> <p>(a) The Permit Holder shall provide a report to the CEO by 31 July each year for the life of this permit, demonstrating adherence to all conditions of this permit, and setting out the records required under Condition 12 of this permit in relation to clearing carried out between 1 July and 30 June of the previous financial year.</p> <p>(b) Prior to 2 May 2029, the Permit holder must provide to the CEO a written report of records required under Condition 12 of this permit where these records have not already been provided under Condition 13(a) of this permit.</p>	<p>Complied. Refer to the end of Financial Year reports correctly submitted to DWER for 2020 and 2021.</p>

Appendix A - References and databases

1. GIS datasets

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

- Aboriginal Heritage Places (DPLH-001)
- Cadastre Address (LGATE-002)
- 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)
- IBRA Vegetation Statistics
- Regional Parks (DBCA-026)

Restricted GIS Databases used:

- ICMS (Incident Complaints Management System) – Points and Polygons
- Threatened Flora (TPFL)
- Threatened Flora (WAHerb)
- Threatened Fauna
- Threatened Ecological Communities and Priority Ecological Communities
- Threatened Ecological Communities and Priority Ecological Communities (Buffers)

2. References

Biota (2017) Eliwana Consolidated Detailed Flora and Vegetation Survey. Report prepared for Fortescue Metals Group Ltd, by Biota Environmental Services, 2017.

Ecoscape (2014) Western Hub Rail Link Level 2 Flora and Vegetation Survey. Report prepared for Fortescue Metals Group Ltd, by Ecoscape (Australia) Pty Ltd, 2014.

Ecoscape (2015) Eliwana and Flying Fish Level 2 Flora and Vegetation Survey (Phase 2). Report prepared for Fortescue Metals Group Ltd, by Ecoscape (Australia) Pty Ltd, 2015.

FMG (2019) Native Vegetation Clearing Permit Supporting Documentation – Water Drilling Activities. Fortescue Metals Group Ltd, Western Australia, 5 March 2019. (A1775542)

FMG (2019a) Native Vegetation Clearing Assessment Report – Water Drilling Activities. Fortescue Metals Group Ltd, Western Australia, 25 March 2019.

FMG (2019b) Notification of clearing permit envelope amendment for CPS 8432/1. Received 23 April 2019 (DWER ref. A1783120).

FMG (2019c) Information in relation to Priority 3 flora species *Rhagodia* sp. Hamersley. Received 1 July 2019 (DWER ref. A1801747).

FMG (2020) End of Financial Year report to DWER (DWER ref. DWERDT608456).

FMG (2021) End of Financial Year report to DWER (DWER ref. DWERDT608455).

Ministerial Statement 1108 (2019) Eliwana Railway Project (DWER ref. DWERDT608458).

CPS 8432-1 (2019) – Purpose permit for groundwater investigations, Eliwana Project (DWER ref. A1799520).

CPS 8432-1 (2019) – Grant decision report (DWER ref. A1799523).

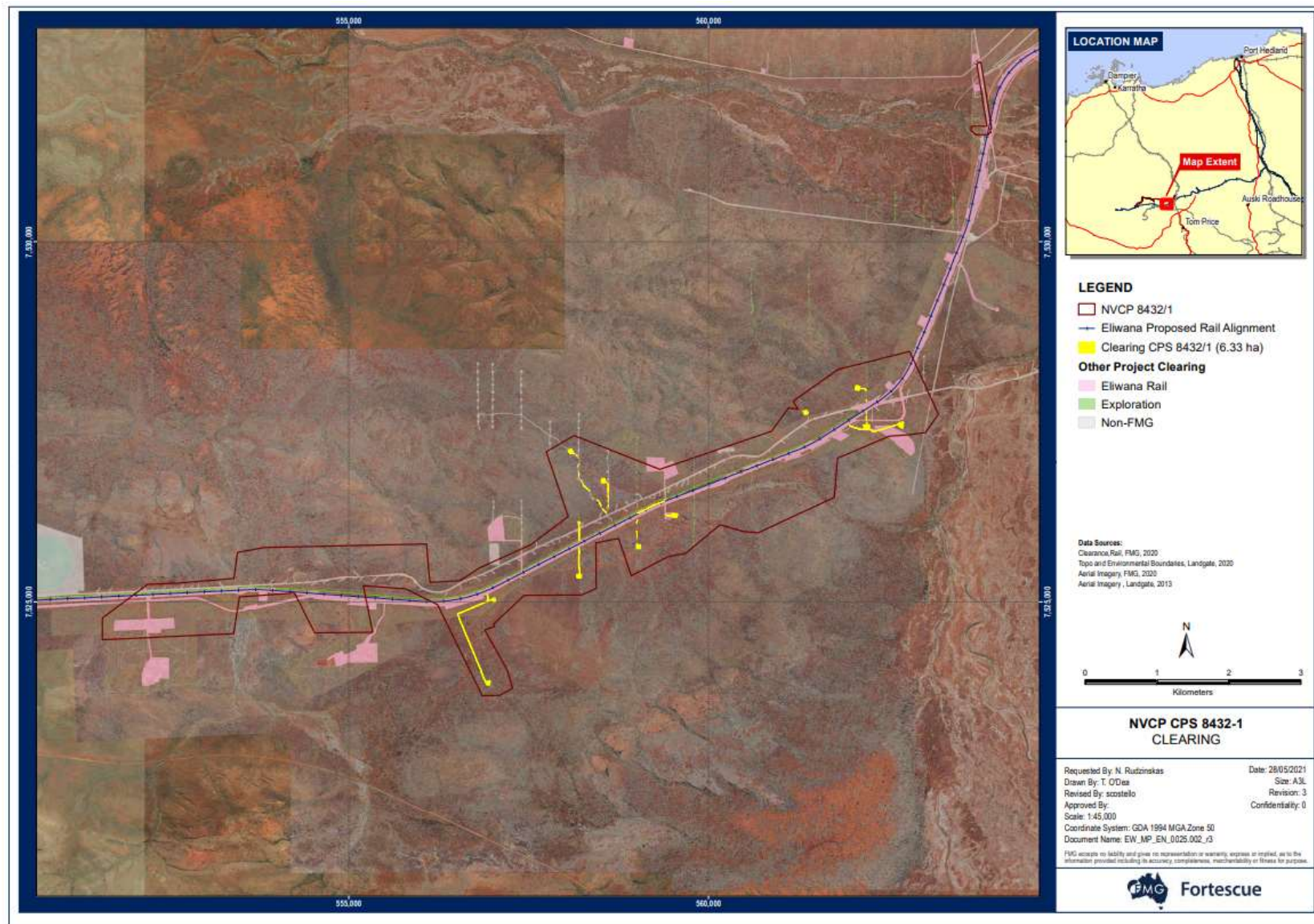


Figure 1: Clearing extend reported by the proponent under FY21 annual report and showing total area cleared under clearing permit CPS 8432/1 equals to 6.33 ha. This includes the cleared area reported under FY20.

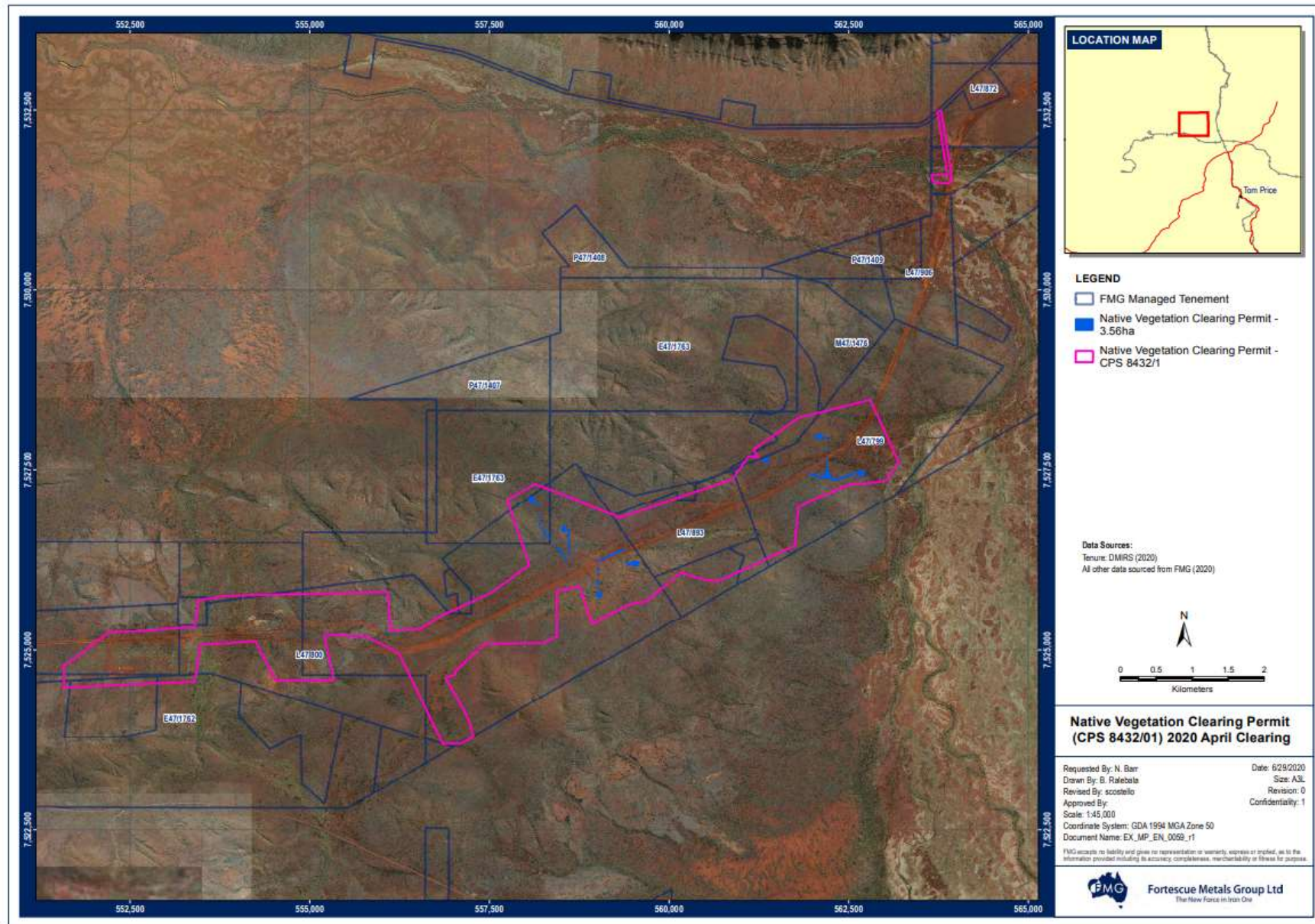


Figure 2: Clearing extend reported by the proponent under FY20 annual report and showing total area cleared under clearing permit CPS 8432/1 equals to 3.56 ha.

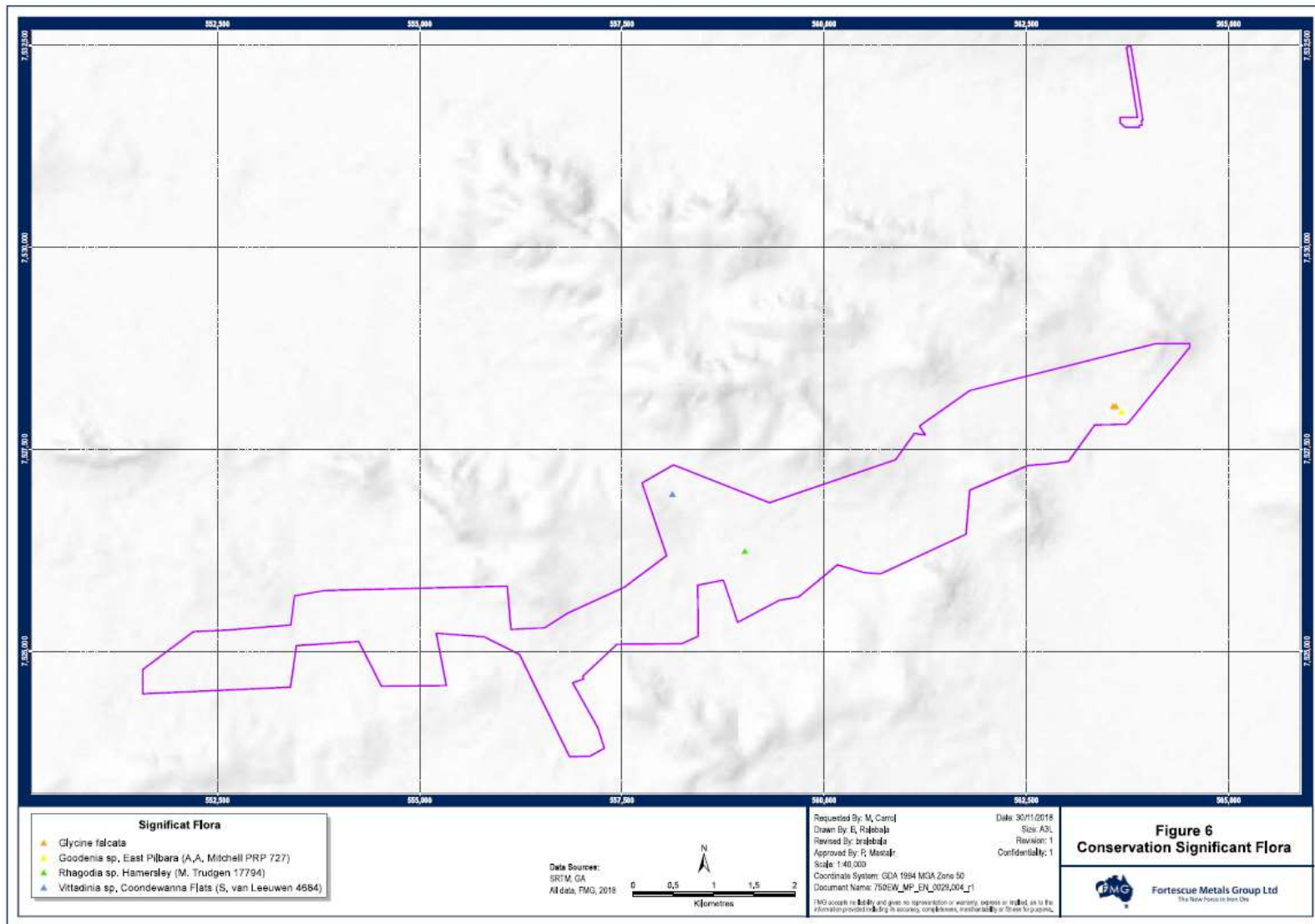


Figure 3: Location of significant flora within CPS 8432/1 (Fortescue survey report, November 2018).

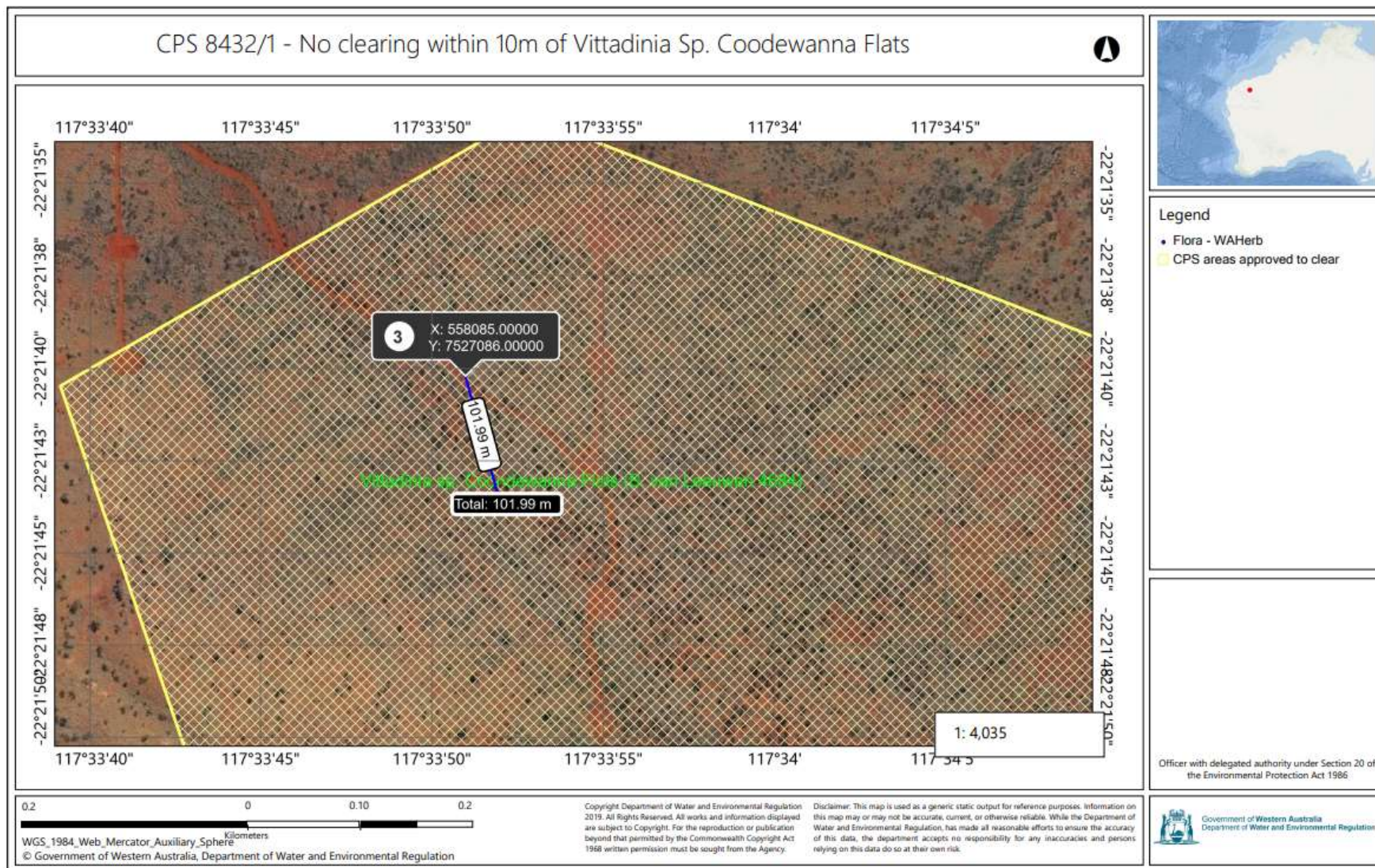


Figure 4: Clearing footprint coordinates showing closest clearing footprint is located at approximately 101 meters from the closest *Vittadinia Sp.* Coodewanna Flats.