



CLEARING PERMIT

Granted under section 51E of the Environmental Protection Act 1986

PERMIT DETAILS

Area Permit Number: CPS 8830/2
File Number: DWERVT5437~4
Duration of Permit: From 14 January 2022 to 14 December 2024

PERMIT HOLDER

Gems Brook Pty Ltd

LAND ON WHICH CLEARING IS TO BE DONE

Lot 12291 on Deposited Plan 203116, Boorara Brook

AUTHORISED ACTIVITY

The permit holder must not clear more than 3.27 hectares of native vegetation within the area cross-hatched yellow in Figure 1 of Schedule 1, and no more than 5.67 hectares of *native vegetation* within the area cross-hatched red in Figure 1 of Schedule 1.

CONDITIONS

1. Avoid, minimise, and reduce impacts and extent of clearing

In determining the *native vegetation* authorised to be cleared under this permit, the permit holder must apply the following principles, set out in descending 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.

2. Weed and dieback management

When undertaking any clearing authorised under this permit, the permit holder must take the following measures to minimise the risk of introduction and spread of *weeds* and *dieback*:

- (a) clean vehicles or equipment, used for clearing, of soil and vegetation prior to entering and leaving the area to be cleared;

- (b) ensure that no known *dieback* or *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.

3. Limits of clearing

- (a) Broadscale clearing of *native vegetation* is prohibited within the areas cross-hatched red in Figure 1 of Schedule 1.
- (b) Clearing within the areas cross-hatched red in Figure 1 of Schedule 1 is limited to the extent necessary using to facilitate access to control blackberry (**Rubus* sp.), and the *incidental clearing* caused by the removal or killing of blackberry (**Rubus* sp.) using *low impact clearing* methods where practicable.
- (c) Clearing to access blackberry infestations is only to the extent necessary using the least invasive access method.
- (d) Clearing in association with blackberry control is only authorised if it is an unavoidable consequence of control method. For chemical control, it is a requirement that herbicide application is in accordance with the product label and relevant best practice guidance for blackberry control in WA.

4. Directional clearing

The permit holder must conduct clearing activities in a slow, progressive manner towards adjacent *native vegetation* to allow fauna to move into adjacent *native vegetation* ahead of the clearing activity.

5. Records that must be kept

The permit holder must maintain records relating to the listed relevant matters in accordance with the specifications detailed in Table 1.

Table 1: Records that must be kept

No.	Relevant matter	Specifications
1.	In relation to the authorised clearing activities generally	<ul style="list-style-type: none">(a) the species composition, structure, and density of the cleared area;(b) the location where the clearing occurred, recorded using a Global Positioning System (GPS) unit set to Geocentric Datum Australia 1994 (GDA94), expressing the geographical coordinates in Eastings and Northings;(c) direction of clearing;(d) the date that the area was cleared;(e) the size of the area cleared (in hectares);(f) actions taken to avoid, minimise, and reduce the impacts and extent of clearing in accordance with condition 1 of this permit;(g) actions taken to minimise the risk of the introduction and spread of <i>weeds</i> and <i>dieback</i> in accordance with condition 2 of this permit;(h) actions taken to limit clearing within the areas cross-hatched red in Figure 1 of Schedule 1 in accordance with condition 3 of this permit; and(i) the date of herbicide application or physical controls referred to under condition 3(b).

6. Reporting

The permit holder must provide to the *CEO* the records required under condition 5 of this permit when requested by the *CEO*.

DEFINITIONS

In this permit, the terms in Table have the meanings defined.

Table 2: Definitions

Term	Definition
CEO	Chief Executive Officer of the department responsible for the administration of the clearing provisions under the <i>Environmental Protection Act 1986</i> .
clearing	has the meaning given under section 3(1) of the EP Act.
condition	a condition to which this clearing permit is subject under section 51H of the EP Act.
dieback	means the effect of <i>Phytophthora</i> species on native vegetation.
department	means the department established under section 35 of the <i>Public Sector Management Act 1994</i> (WA) and designated as responsible for the administration of the EP Act, which includes Part V Division 3.
EP Act	<i>Environmental Protection Act 1986</i> (WA)
incidental clearing	the incidental death of <i>native vegetation</i> from the spraying and physical removal of blackberry.
low impact clearing	grubbing, pruning, slashing, burning, or the use of appropriate herbicides.
native vegetation	has the meaning given under section 3(1) and section 51A of the EP Act.
weeds	means any plant – (a) that is a declared pest under section 22 of the <i>Biosecurity and Agriculture Management Act 2007</i> ; or (b) published in a Department of Biodiversity, Conservation and Attractions species-led ecological impact and invasiveness ranking summary, regardless of ranking; or (c) not indigenous to the area concerned.

END OF CONDITIONS



Mathew Gannaway
MANAGER
NATIVE VEGETATION REGULATION

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

27 July 2022

SCHEDULE 1

The boundaries of the area authorised to be cleared is shown in the map below (Figure 1).

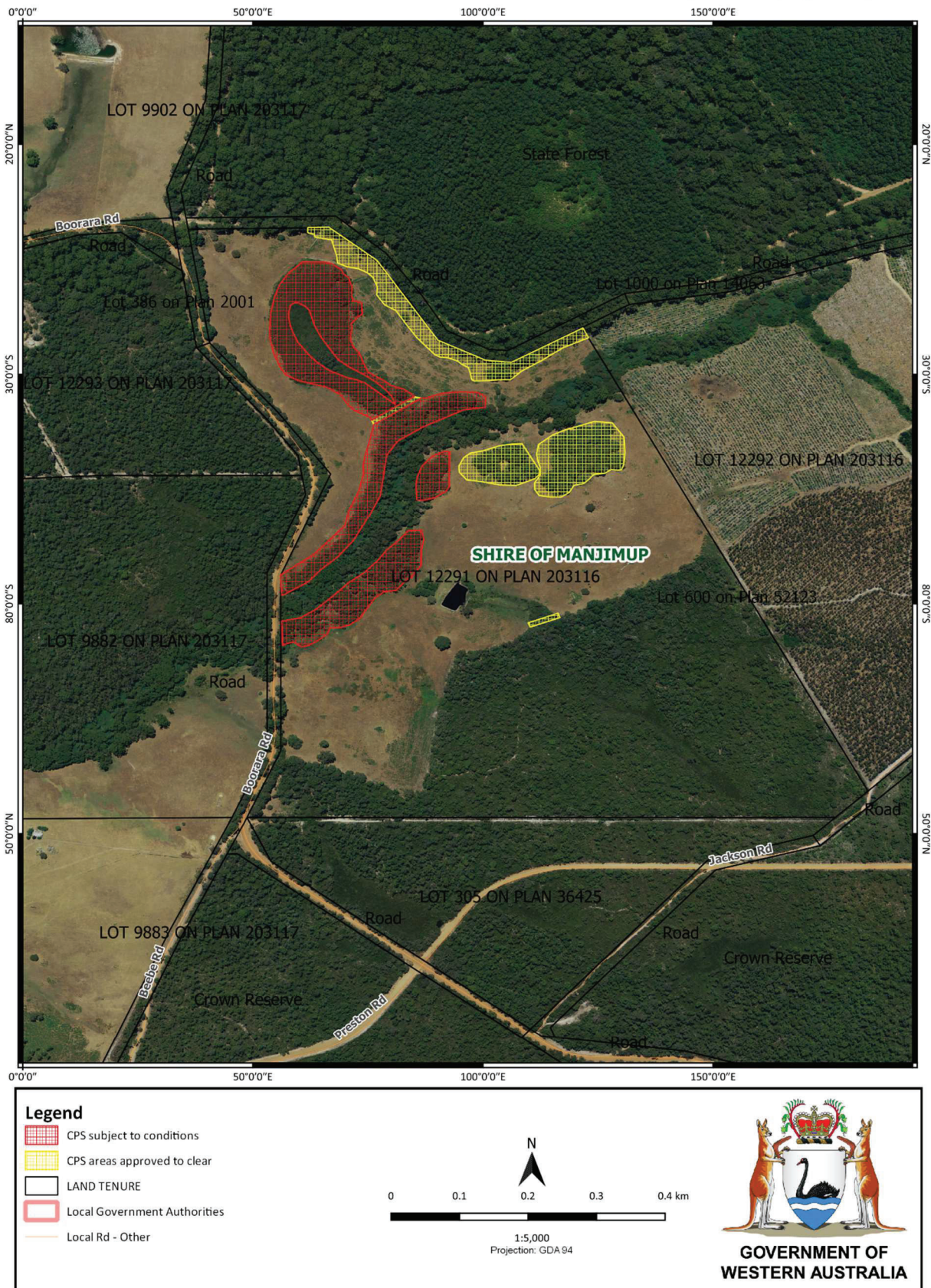


Figure 1: Map of the boundaries of the areas within which clearing may occur

1 Application details and outcome

1.1. Permit application details

Permit number:	CPS 8830/1
Permit type:	Area permit
Applicant name:	Gems Brook Pty Ltd
Application area:	27.388 hectares of native vegetation
Purpose of clearing:	Re-establishing the property for primary production
Method of clearing:	Mechanical removal
Properties:	Lot 12291 on Deposited Plan 203116, Boorara Brook
Location (LGA area):	Shire of Manjimup
Localities (suburb):	Boorara Brook

1.2. Description of clearing activities

The application is for the proposed clearing of 27.388 hectares of native vegetation within Lot 12291 on Deposited Plan 203116, Boorara Brook, for the purpose of re-establishing the property for primary production. This includes re-establishment and expansion of pasture for beef production with the potential to convert to Blue Gum (*Eucalyptus globulus*) plantations in the future. The application area is made up of multiple areas as shown in Figure 1 and labelled A-G.

1.3. Decision on application

Decision:	Granted
Decision date:	27 July 2022
Decision area:	8.94 hectares of native vegetation as depicted in Section 1.5, below.

1.4. Reasons for decision

On 20 December 2021, the Department of Water and Environmental Regulation (DWER) determined to grant Gems Brook Pty Ltd's Clearing Permit CPS 8830/1 for the clearing of 8.6 hectares of native vegetation within Lot 2 on Deposited Plan 14927, Boorara Brook, for the purpose of sand extraction.

One appeal (hereafter referred to as the appeal) was lodged against the decision to grant a clearing permit with conditions.

Having considered the information available to the Western Australian Minister for Environment (Minister), including the Department's response to the appeal and the Appeals Convenor's report and recommendation, the Minister allowed the appeal in part, to the extent that that the clearing is found to be at variance to clearing principle (b) and the conditions of the permit be amended as follows:

- condition 2(a) is amended by deleting 'earth-moving machinery' and inserting 'vehicles or equipment used for the clearing'
- condition 3(b) is amended to clarify that:
 - clearing to access blackberry infestations is only to the extent necessary using the least invasive access method
 - clearing in association with blackberry control is only authorised if it is an unavoidable consequence of control method; for chemical control, this should include a requirement that herbicide application is in accordance with the product label and relevant best practice guidance for blackberry control in WA
- condition 5 is amended to include keeping of records about the dates of herbicide application or physical controls referred to under condition 3(b)
- definition of 'incidental clearing' is amended by deleting 'mechanical removal' and inserting 'physical removal'.

The Delegated Office had taken the above into consideration and decided to grant an amended clearing permit to reflect the Minister's determination.

1.5. Site maps

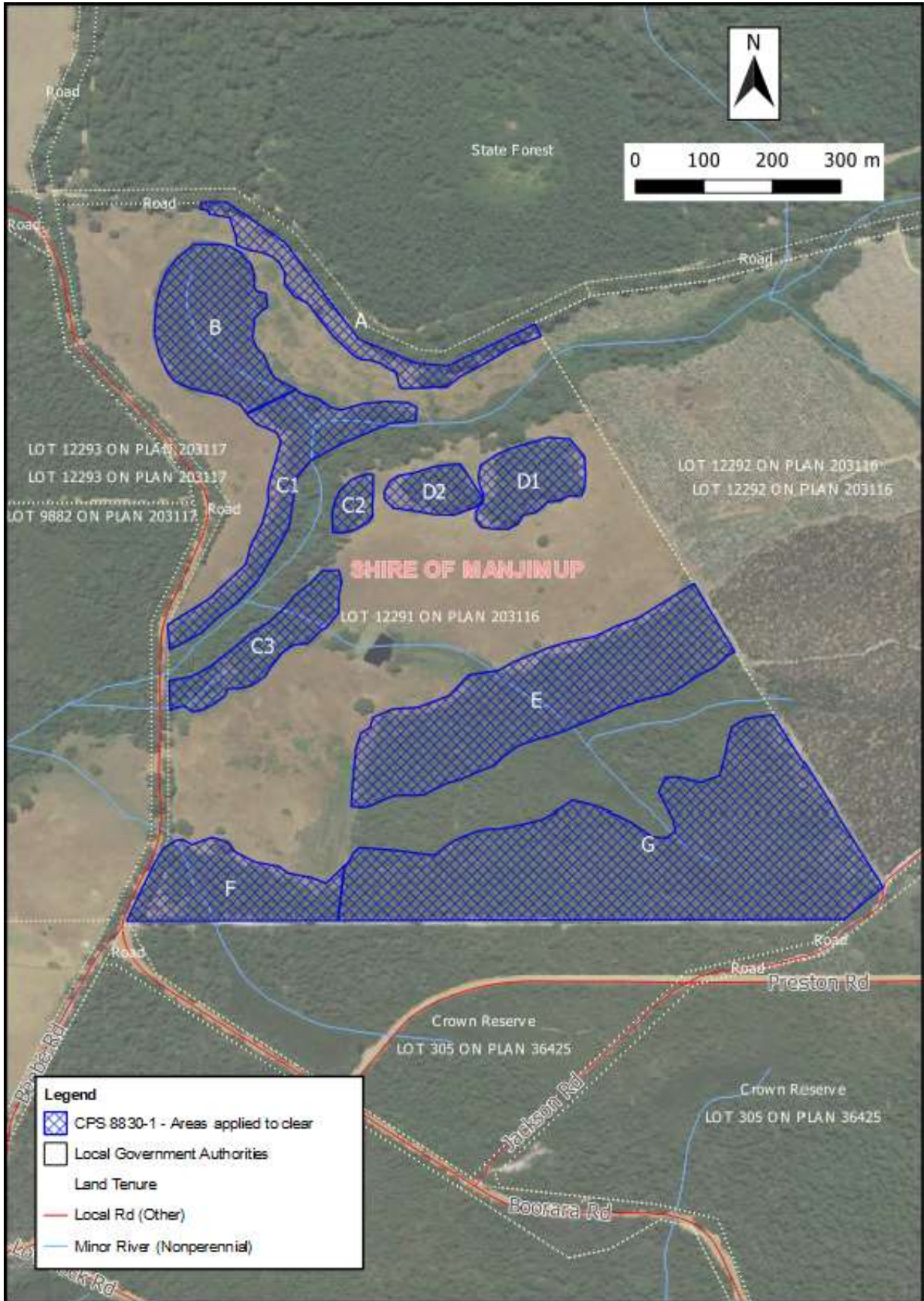


Figure 1: Map of the application area

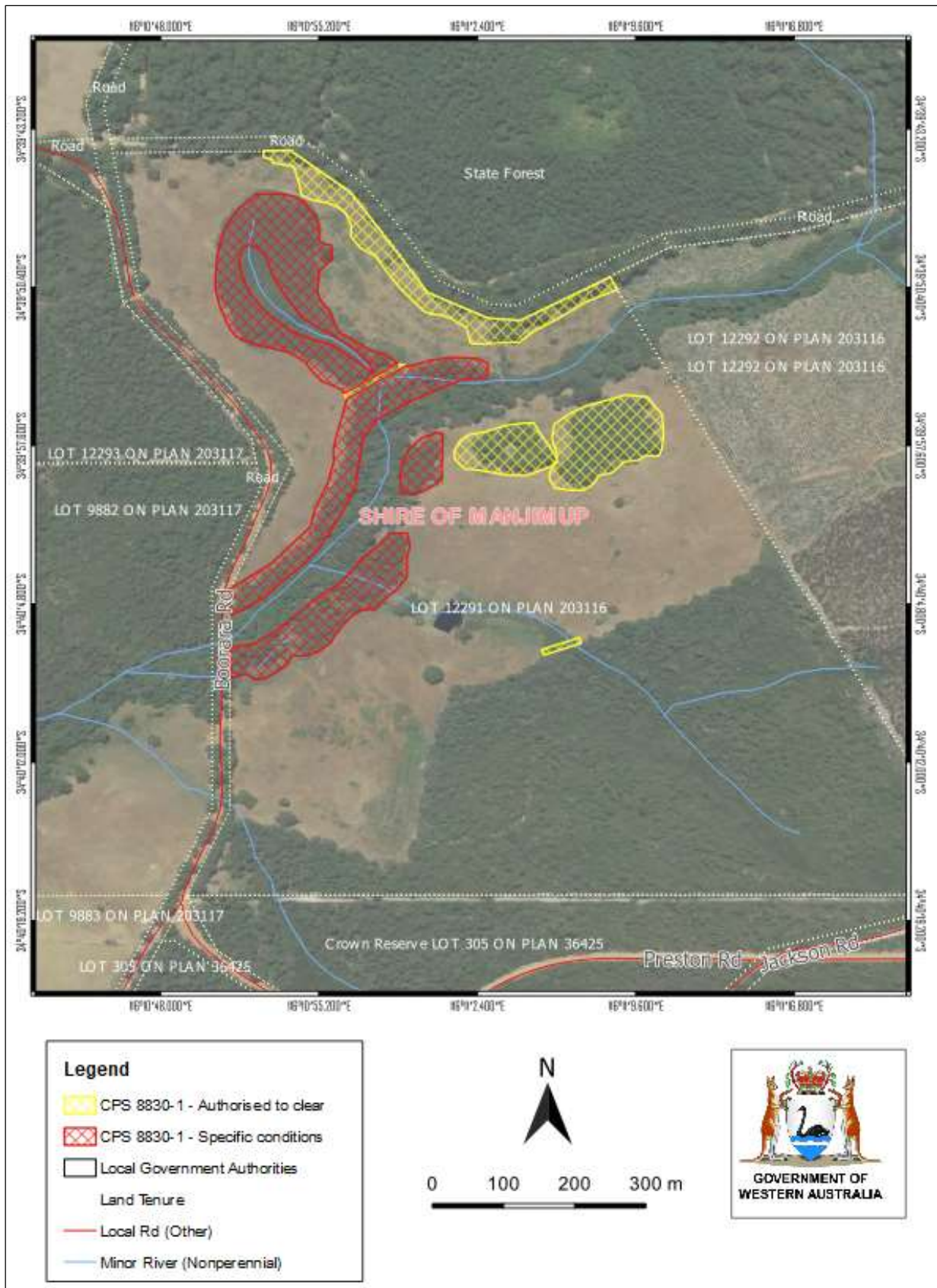


Figure 2: Map of the areas authorised to clear

The areas cross-hatched yellow indicate the areas authorised to be cleared under the granted clearing permit. The areas cross-hatched red indicate areas within which specific conditions apply.

2 Legislative context

The clearing of native vegetation in Western Australia is regulated under the *Environmental Protection Act 1986* (EP Act) and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (Clearing Regulations).

In addition to the matters considered in accordance with section 51O of the EP Act (see Section 1.4), the Delegated Officer has also had regard to the objects and principles under section 4A of the EP Act, particularly:

- the precautionary principle
- the principle of intergenerational equity
- the principle of the conservation of biological diversity and ecological integrity.

Other legislation of relevance for this assessment include:

- *Biodiversity Conservation Act 2016* (WA) (BC Act)
- *Biosecurity and Agriculture Management Act 2007* (BAM Act)
- *Conservation and Land Management Act 1984* (WA) (CALM Act)
- *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)
- *Soil and Land Conservation Act 1945* (WA)

The key guidance documents which inform this assessment are:

- *A guide to the assessment of applications to clear native vegetation* (DER December 2013)
- *Procedure: Native vegetation clearing permits* (DWER October 2019)
- Technical guidance – *Terrestrial Fauna Surveys for Environmental Impact Assessment* (EPA 2016)

3 Detailed assessment of application

3.1. Avoidance and mitigation measures

The avoidance and minimisation measures proposed by the applicant has not changed and can be found in the Decision Report for CPS 8830/1.

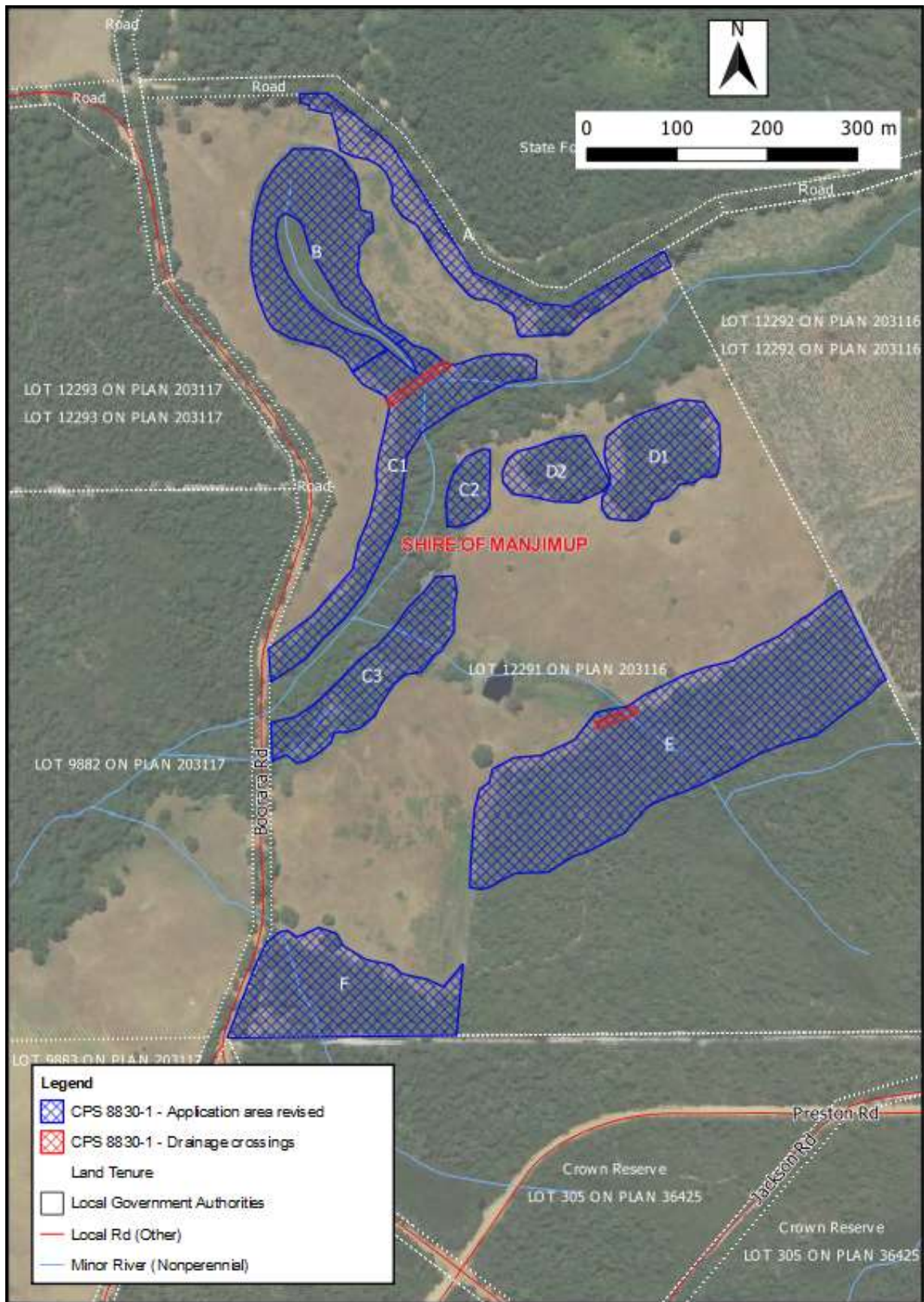


Figure 3: Map of the revised application area

3.2. Assessment of impacts on environmental values

In assessing the application, the Delegated Officer has had regard for the site characteristics and the extent to which the impacts of the proposed clearing present a risk to biological, conservation, or land and water resource values.

The assessment against the clearing principles identified that the impacts of the proposed clearing present a potential risk to the biological values of fauna habitat, nearby conservation areas, watercourses, and land and water resource values that required further consideration.

The amendment is a result of an appeal determination made by the Minister for Environment (the Minister) regarding the grant of clearing permit CPS 8830/1.

The assessment against the clearing principles outlined in Schedule 5 of the EP Act remain unchanged and can be found in the Decision Report prepared for Clearing Permits CPS 8830/1.

3.3. Relevant planning instruments and other matters

The assessment against planning instruments and other matters has not changed since the assessment under CPS 8830/1.

To give effect to a decision of the Minister under the EP Act, the Chief Executive Officer of DWER or their delegates may amend a clearing permit under section 51K(h) of the EP Act. Section 105(aa) of the EP Act states that amendments made under this section of EP Act are not appealable. On this basis, the abovementioned amendments made by the Delegated Officer to reflect the Minister's determination on the appeal against Clearing Permit CPS 8830/1 are not available for third party appeal.

On 24 June 2022, in accordance with section 51M(2) of the EP Act, the Department provided Gems Brook Pty Ltd an opportunity to provide comments on Draft Clearing Permit CPS 8830/2.

On 26 July 2022, Gems Brook Pty Ltd advised they had no comments regarding Draft Clearing Permit CPS 8830/2.

End