



## CLEARING PERMIT

*Granted under section 51E of the Environmental Protection Act 1986*

<b>Purpose Permit number:</b>	CPS 9265/2
<b>Permit Holder:</b>	Satterley Property Group Pty Ltd
<b>Duration of Permit:</b>	From 13 June 2022 to 3 September 2031

The permit holder is authorised to clear *native vegetation* subject to the following *conditions* of this permit.

### **PART I – CLEARING AUTHORISED**

#### **1. Clearing authorised (purpose)**

The permit holder is authorised to clear native vegetation for clearing carried out in accordance with the document titled “Greenpatch, Remedial Action Plan (RPS, 29 June 2021)”, as retained on DWER file no A2085980, or the latest version of the Remediation Action Plan endorsed by the accredited Contaminated Sites Auditor.

#### **2. Land on which clearing is to be done**

Lot 9109 on Deposited Plan 419061, Dalyellup

#### **3. Clearing authorised**

The permit holder must not clear more than 0.5 hectares of *native vegetation* within the area cross-hatched yellow in Figure 1 of Schedule 1.

#### **4. Period during which clearing is authorised**

The permit holder must not clear any *native vegetation* after 3 September 2026.

### **PART II – MANAGEMENT CONDITIONS**

#### **5. 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.

## 6. Weed 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*:

- (a) clean earth-moving machinery of soil and vegetation prior to entering and leaving the area to be cleared;
- (b) ensure that no known 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.

## 7. Directional clearing

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

## 8. Fauna management – western ringtail possums

In relation to the area cross-hatched yellow in Figure 1 of Schedule 1, the permit holder must engage a *fauna specialist* to inspect that area immediately prior to, and for the duration of clearing activities, for the presence of western ringtail possum(s) (*Pseudocheirus occidentalis*).

- (a) *Clearing* activities must cease in any area where fauna referred to in *condition* 8(a) are identified until either:
  - (i) the western ringtail possum(s) individual has moved on from that area to adjoining *suitable habitat*; or
  - (ii) the western ringtail possum(s) individual has been removed by a *western ringtail possum specialist*.
- (b) Any western ringtail possum(s) individual removed in accordance with *condition* 8(b)(ii) must be relocated by a *western ringtail possum specialist* to a *suitable habitat* or as otherwise approved by the *CEO*.
- (c) Where fauna is identified under *condition* 8(a), the permit holder must within 14 calendar days provide the following records to the *CEO*:
  - (i) the number of individuals identified;
  - (ii) the date each individual was identified;
  - (iii) the location where each individual was identified recorded using a Global Positioning System (GPS) unit set to Geocentric Datum Australia 1994 (GDA94), expressing the geographical coordinates in Eastings and Northings or decimal degrees;
  - (iv) the number of individuals removed and relocated;
  - (v) the relevant qualifications of the *western ringtail possum specialist* undertaking removal and relocation;
  - (vi) the date each individual was removed;
  - (vii) the method of removal;
  - (viii) the date each individual was relocated;
  - (ix) the location where each individual was relocated to, recorded using a GPS unit set to GDA94, expressing the geographical coordinates in Eastings and Northings or decimal degrees; and

- (x) details pertaining to the circumstances of any death of, or injury sustained by, an individual.

## 9. Revegetation and rehabilitation – retention of vegetative material and topsoil

The permit holder must:

- (a) retain *uncontaminated* vegetative material removed by *clearing* authorised under this permit and stockpile *uncontaminated* vegetative material in an area that has already been cleared;
- (b) retain 100 millimetres of *uncontaminated* topsoil from the cleared area, where possible, and stockpile the topsoil in an area that has already been cleared;
- (c) immediately following *clearing* authorised under this permit, *revegetate* and *rehabilitate* the area(s) that are no longer required for remediation actions by:
  - (i) re-shaping the surface of the land so that it is consistent with the surrounding five metres of uncleared land;
  - (ii) ripping the ground on the contour to remove soil compaction;
  - (iii) laying the *uncontaminated* topsoil, or other clean *fill*, retained under *condition* 9(b) on the cleared area(s); and
  - (iv) laying the *uncontaminated* vegetative material, retained under *condition* 9(a) on the cleared area(s); and
  - (v) undertake *weed* control activities as required, to reduce *weed* cover within the *revegetation* areas to no greater than the *weed* cover within the surrounding five metres of uncleared land.

## PART III - RECORD KEEPING AND REPORTING

### 10. 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 <i>clearing</i> activities generally	<ul style="list-style-type: none"> <li>(a) the species composition, structure, and density of the cleared area;</li> <li>(b) the location where the <i>clearing</i> occurred, recorded using a Global Positioning System (GPS) unit set to Geocentric Datum Australia 1994 (GDA94), expressing the geographical coordinates in Eastings and Northings;</li> <li>(c) the date that the area was cleared;</li> <li>(d) the size of the area cleared (in hectares);</li> <li>(e) actions taken to avoid, minimise, and reduce the impacts and extent of <i>clearing</i> in accordance with <i>condition</i> 5; and</li> <li>(f) actions taken to minimise the risk of the introduction and spread of <i>weeds</i> in accordance with <i>condition</i> 6.</li> </ul>

No.	Relevant matter	Specifications
2.	In relation to fauna management pursuant to <i>condition 8</i>	(a) actions taken to manage western ringtail possum(s) in accordance with <i>condition 8</i> .
3.	In relation to revegetation pursuant to <i>condition 9</i>	(b) actions taken to <i>revegetate</i> and <i>rehabilitate</i> in accordance with <i>condition 9</i> .

## 11. Reporting

The permit holder must provide to the *CEO* the records required under *condition 10* of this permit when requested by the *CEO*.

## DEFINITIONS

In this permit, the terms in Table 2 have the meanings defined.

**Table 2: Definitions**

Term	Definition
CEO	Chief Executive Officer of the <i>department</i> responsible for the administration of the <i>clearing</i> provisions under the <i>Environmental Protection Act 1986</i> .
clearing	has the meaning given under section 3(1) of the <i>EP Act</i> .
condition	a <i>condition</i> to which this <i>clearing</i> permit is subject under section 51H of the <i>EP Act</i> .
contaminated	has the meaning given to it under the <i>Contaminated Sites Act 2003</i> section 4(1) being; in relation to land, water or a site, means having a substance present in or on that land, water or site at above background concentrations that presents, or has the potential to present, a risk of harm to human health, the environment or any environmental value.
department	means the <i>department</i> established under section 35 of the <i>Public Sector Management Act 1994</i> (WA) and designated as responsible for the administration of the <i>EP Act</i> , which includes Part V Division 3.
EP Act	<i>Environmental Protection Act 1986</i> (WA)
fauna specialist	means a person who holds a tertiary qualification specialising in environmental science or equivalent, and has a minimum of 2 years work experience in fauna identification and surveys of fauna native to the region being inspected or surveyed, or who is approved by the <i>CEO</i> as a suitable <i>fauna specialist</i> for the bioregion, and who holds a valid fauna licence issued under the <i>Biodiversity Conservation Act 2016</i> .
fill	means material used to increase the ground level, or to fill a depression.
mulch	means the use of organic matter, wood chips or rocks to slow the movement of water across the soil surface and to reduce evaporation.
native vegetation	has the meaning given under section 3(1) and section 51A of the <i>EP Act</i> .

Term	Definition
rehabilitate/ rehabilitated/ rehabilitation	means actively managing an area containing <i>native vegetation</i> in order to improve the ecological function of that area.
revegetate / vegetated / revegetation	means the re-establishment of a cover of local provenance <i>native vegetation</i> in an area using methods such as natural regeneration, direct seeding and/or planting, so that the species composition, structure and density is similar to pre-clearing vegetation types in that area.
suitable habitat (western ringtail possum)	means habitat known to support western ringtail possums ( <i>Pseudocheirus occidentalis</i> ) within the known current distribution of the species, typically characterised by abundant foliage, presence of suitable nesting structures such as tree hollows, as well as high canopy cover and continuity. Known habitat includes peppermint ( <i>Agonis flexuosa</i> ) dominated woodlands, jarrah ( <i>Eucalyptus marginata</i> ) and marri ( <i>Corymbia calophylla</i> ) forests, riparian vegetation with a canopy of Bullich ( <i>Eucalyptus megacarpa</i> ) or flooded gum ( <i>Eucalyptus rudis</i> ), karri ( <i>Eucalyptus diversicolor</i> ) forests, sheoak ( <i>Allocasuarina fraseriana</i> ) dominated woodlands, and other stands of myrtaceous trees growing near swamps, watercourses or floodplains.
uncontaminated	in relation to land, water or a site, means not being classed as <i>contaminated</i> in accordance with the <i>Contaminated Sites Act 2003</i> , section 4(1).
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.
western ringtail possum specialist	means a <i>fauna specialist</i> who holds a tertiary qualification specialising in environmental science or equivalent, has a minimum of two years of work experience in western ringtail possum ( <i>Pseudocheirus occidentalis</i> ) identification, surveys of western ringtail possums and capture and handling of western ringtail possums, and holds a valid fauna licence issued under the <i>Biodiversity Conservation Act 2016</i> .

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## END OF CONDITIONS



Jessica Burton  
A/ MANAGER  
NATIVE VEGETATION REGULATION

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

15 June 2022

# Schedule 1

## Plan 9265/2

The boundary of the area authorised to be cleared is shown in the map below

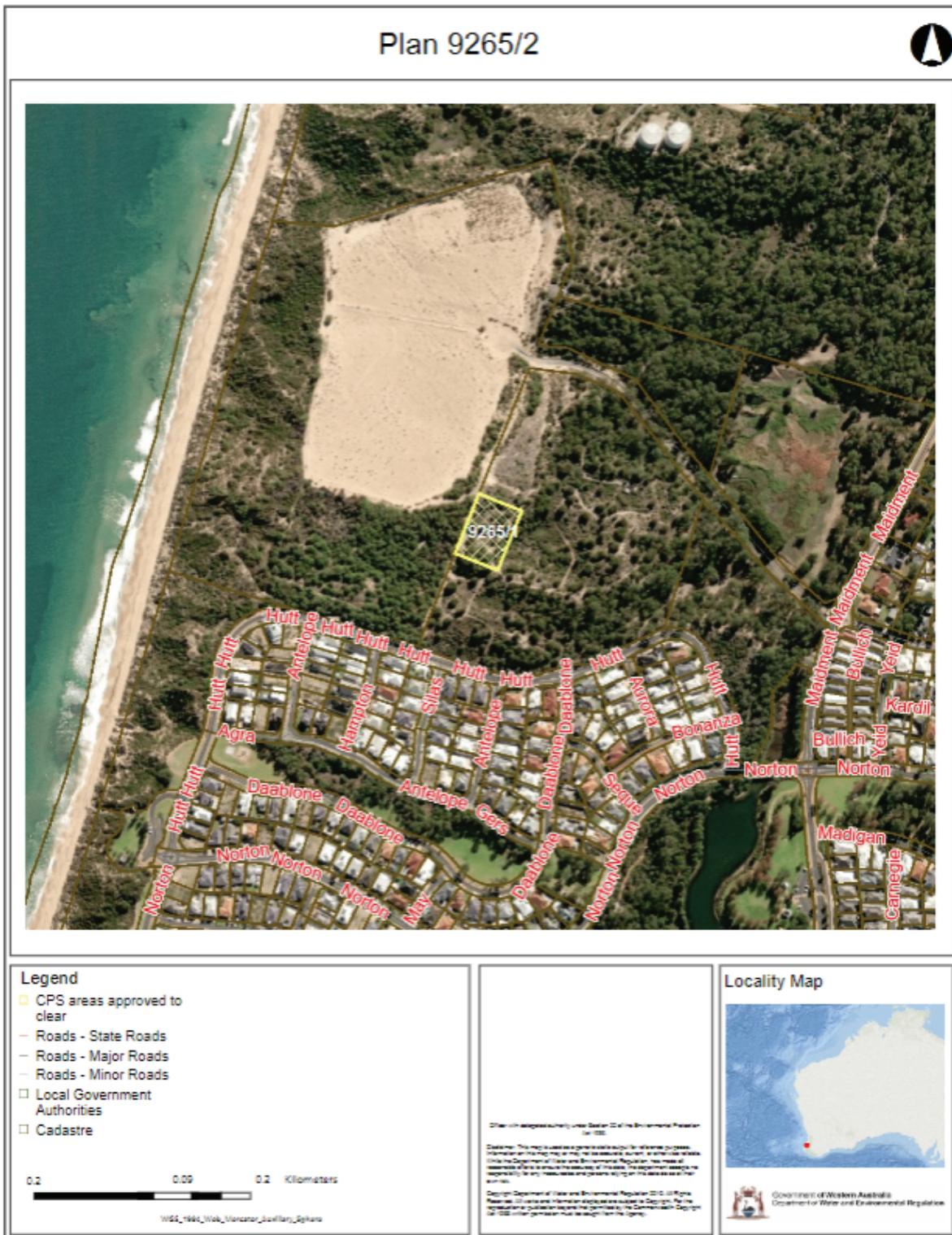


Figure 1: Map of the boundary of the area within which clearing may occur



# Clearing Permit Decision Report

## 1 Application details and outcome

### 1.1. Permit application details

<b>Permit number:</b>	CPS 9265/2
<b>Permit type:</b>	Purpose permit
<b>Applicant name:</b>	Satterley Property Group Pty Ltd
<b>Application received:</b>	13 April 2021
<b>Application area:</b>	0.5 hectares of native vegetation
<b>Purpose of clearing:</b>	Clearing for the purpose of remediation actions undertaken in accordance with an approved Remediation Action Plan
<b>Method of clearing:</b>	Mechanical removal
<b>Property:</b>	Lot 9109 on Deposited Plan 419061
<b>Location (LGA area/s):</b>	Shire of Capel
<b>Localities (suburb/s):</b>	Dalyellup

### 1.2. Description of clearing activities

The vegetation proposed to be cleared is contained within a single contiguous area (see Figure 1, Section 1.5). The application is to clear native vegetation within the proposed area to facilitate remediation actions undertaken in accordance with an approved Remediation Action Plan, including the excavation of in-situ soil material. This clearing is associated with clearing previously permitted under clearing permit CPS 8609/1.

### 1.3. Decision on application

<b>Decision:</b>	Granted
<b>Decision date:</b>	15 June 2022
<b>Decision area:</b>	0.5 hectares of native vegetation, as depicted in Section 1.5, below.

### 1.4. Reasons for decision

On 11 August 2021, the Department of Water and Environmental Regulation (DWER) determined to grant Satterley Property Group Pty Ltd's Clearing Permit CPS 9265/1 to for the clearing of 0.5 hectares of native vegetation within Lot 9109 on Plan 419061 for the purpose of remediation actions described under an approved Remediation Action Plan (RAP).

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

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 to the extent that the permit condition relating to the purpose for clearing, be amended to reflect that the purpose for clearing is to align with the most current RAP endorsed by the contaminated sites auditor.



## 2 Legislative context

The clearing of native vegetation in Western Australia is regulated under the 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 polluter pays principle
- 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)
- *Conservation and Land Management Act 1984* (WA) (CALM Act)
- *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)
- *Planning and Development Act 2005* (WA) (P&D Act)
- *Soil and Land Conservation Act 1945* (WA)
- *Contaminated Sites Act 2003* (WA)
- *Contaminated Sites Regulations 2006* (WA)
- *National Environmental Protection (Assessment of Site Contamination) Measure 1999* (Cth)

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)
- *Guideline: Assessment and management of contaminated sites* (DWER, December 2014)
- *Guideline: Identification, reporting and classification of contaminated sites in Western Australia* (DWER, June 2017)
- Technical guidance – *Flora and Vegetation Surveys for Environmental Impact Assessment* (EPA, 2016)
- Technical guidance – *Terrestrial Fauna Surveys for Environmental Impact Assessment* (EPA, 2016)

## 3 Detailed assessment of application

### 3.1. Avoidance and mitigation measures

The Delegated Officer was satisfied that the applicant has made a reasonable effort to avoid and minimise potential impacts of the proposed clearing on environmental values through the use of exploratory investigation pits to identify areas of potential contamination. The applicant has only applied to clear areas for remediation where testing supports this outcome.

The applicant previously applied and was granted a clearing permit for investigation of contaminated soils within the same property. The area proposed to be cleared has been identified by the applicant as requiring remediation accordance with their Remediation Action Plan (RPS, 2021). The applicant is committed to mitigation measures imposed by the delegated officer in the absence of being able to avoid the clearing of native vegetation within this 0.5 hectare area (Satterley Property Group Pty Ltd, 2021).

### 3.2. Assessment of impacts on environmental values

In assessing the application, the Delegated Officer has had regard for the site characteristics (see **Error! Reference source not found.**) 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 (see appendix B) identified that the impacts of the proposed clearing present a risk to low quality *Pseudocheirus occidentalis* (Western Ringtail Possum) habitat, environmental linkage values, individual fauna occurring within the application area, the spread of weeds into adjacent native vegetation, vegetation growing in a wetland environment and potential water quality impacts.

The consideration of these impacts, and the extent to which they can be managed through conditions applied in line with sections 51H and 51I of the EP Act, are consistent with the assessment under CPS 9265/1.

### 3.3. Relevant planning instruments and other matters

The assessment against planning instruments and other matters has not changed since the assessment under CPS 9265/1.

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 9265/1 are not available for third party appeal.

On 8 June 2022, in accordance with section 51M(2) of the *Environmental Protection Act 1986* (EP Act), the Department provided Satterley Property Group Pty Ltd an opportunity to provide comments on Draft Clearing Permit CPS 9265/2.

On 13 June 2022, Satterley Property Group Pty Ltd advised they had no comments.

**End**