



## CLEARING PERMIT

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

<b>Purpose Permit number:</b>	CPS 9420/2
<b>Permit Holder:</b>	Kimberley Cotton Company Ltd
<b>Duration of Permit:</b>	From 20 November 2022 to 20 November 2027

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 the purpose of preliminary groundworks and the construction of cotton ginning facilities, including laydown areas for cotton storage.

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

Lot 510 on Deposited Plan 421305 (Crown Reserve 53889), Kununurra.

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

The permit holder must not clear more than 65.33 hectares of *native vegetation* within the area cross-hatched yellow in Figure 1 of Schedule 1.

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

#### **4. 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.

#### **5. 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.

## 6. 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.

## 7. Erosion management

The permit holder must undertake substantial commencement of the activities relating to the proposed purpose no later than three (3) months after undertaking the authorised clearing activities to reduce the potential for wind erosion, water erosion and nutrient export.

## **PART III - RECORD KEEPING AND REPORTING**

### 8. 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	<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 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;</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 clearing in accordance with condition 4;</li> <li>(f) actions taken to minimise the risk of the introduction and spread of <i>weeds</i> in accordance with condition 5.</li> <li>(g) actions taken to minimise the risk to fauna in accordance with condition 6.</li> <li>(h) actions taken to minimise the risk of wind erosion, water erosion and nutrient export in accordance with condition 7.</li> </ul>

### 9. Reporting

The permit holder must provide to the *CEO* the records required under condition 8 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 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.
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)
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 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.

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## END OF CONDITIONS

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Ryan Mincham  
MANAGER  
NATIVE VEGETATION REGULATION

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

10 February 2023

# Schedule 1

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

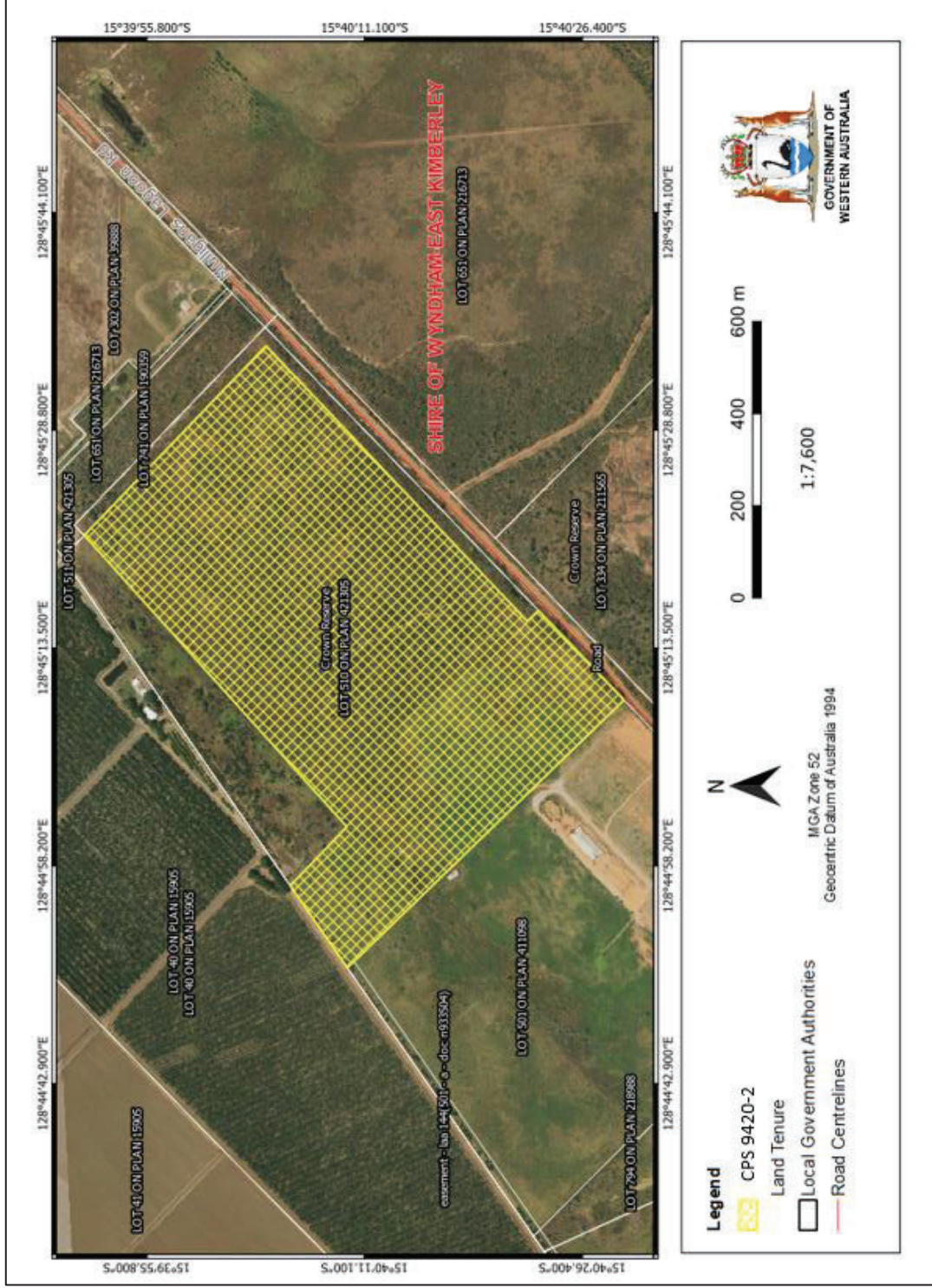


Figure 1: Map of the boundary of the area within which clearing may occur



# Clearing Permit Decision Report

## 1. Application details and outcome

### 1.1. Permit application details

Permit number:	CPS 9420/2
Permit type:	Purpose permit
Applicant name:	Kimberley Cotton Company Ltd
Purpose of clearing:	Construction of cotton ginning facilities, including laydown areas for cotton module storage
Property:	Lot 510 on Deposited Plan 421305 (Crown Reserve 53889 vested by Management Order to Minister for Regional Development for 'agriculture and associated purposes')
Location (LGA area/s):	Shire of Wyndham-East Kimberley

### 1.2. Description of clearing activities

The proposed clearing is to facilitate the construction of cotton ginning facilities, including laydown areas for cotton module storage. The vegetation proposed to be cleared is contained within a single contiguous area and is part of a broader remnant. The original application area of 79.46 hectares was revised to 65.33 hectares during the assessment process. The revised application area has been cleared in the past, with approximately 20.5 hectares currently devoid of native vegetation or in a completely degraded to poor condition (Trudgen, 1991).

### Decision on application and key considerations

Decision:	Granted
Decision date:	10 February 2023
Decision area:	Up to 65.33 hectares of native vegetation

### 1.3. Reasons for decision

On 27 October 2022, the Department of Water and Environmental Regulation (DWER) determined to grant Clearing Permit CPS 9420/1 to authorise the Kimberley Cotton Company Ltd to clear up to 65.33 hectares of native vegetation for the purpose the construction of cotton ginning facilities, including laydown areas for cotton module storage.

One appeal was lodged against the decision to grant the clearing permit CPS 9420/1, covering four grounds of appeal.

This clearing permit amendment gives effect to the Minister for Environment (Minister) determination to allow the appeal in part (Appeal number: 039 of 2022). The Minister determined that:

- the Ivanhoe Land System, listed as a Priority Ecological Community (PEC) (Priority 3) is not established within the application area.
- the impacts of clearing the one *Brachychiton tuberculatus* priority flora individual is not significant.
- given the applicant has stated that no additional areas need to be developed for the facility to be viable, it is not considered that the implementation of this proposal contemplates the development of additional agricultural land. The proposal is not at variance to clearing principle (e).
- native vegetation policy does not mandate the requirement for a net gain in vegetation within a region when considering an individual proposal.
- given DWER has applied a condition relating to wind erosion, it is recommended that condition be amended to also refer to water erosion and nutrient export.

Based on the above considerations, the Minister requested that DWER amend the clearing permit by adding 'water erosion and nutrient export' into the requirements of condition 7. The Minister further recommended that condition 7



be modified to require the activities associated with the construction of the cotton gin to reflect 'substantial commencement'. The Minister otherwise dismissed the appeal.

The Delegated Officer has taken the above into consideration and decided to grant an amended clearing permit in accordance with the Minister's determination. The Delegated Officer amended the existing condition 7 on the permit to reflect the Minister's recommendations.

The Delegated Officer reviewed the information available at the time of the amendment, noting that the site characteristics and assessment against the clearing principles, as well as planning and other matters have not changed from the Clearing Permit Decision Report CPS 9420/1.

## **2. Assessment of application**

### **2.1. Assessment**

This amendment is the result of an appeal determination made by the Minister for Environment regarding the conditions of Clearing Permit CPS 9420/1. As a result of the appeal determination, condition 7 of the clearing permit has been amended.

The Minister found that the concerns raised by the appellant does not justify the cancellation of the permit. The Minister determined that for consistency, requirements relating to wind erosion should be modified to also refer to water erosion and nutrient export. The Minister also requested that the department review its policy and procedures in relation to when and how climate change predictions may be a relevant consideration in assessing clearing permit applications.

The original application assessed the potential for clearing of native vegetation to cause appreciable land degradation, in the forms of wind and water erosion, as being 'may be at variance' to clearing principle (g). This determination was based on the location and extent of the application area, landform, mapped soil types, and the mapped land degradation risks. However, the assessment recognised that the risk of water erosion in the area could be mitigated by engineering design, and the associated earthworks necessary for the development. Therefore, DWER elected to only condition the management of wind erosion in the clearing permit.

The appellant raised concerns in regard to DWER's decision to only condition wind erosion management in the clearing permit. The appellant stated that there is a risk associated with water erosion and phosphorus export, and that these risks should also be subject to district assessment and potential mitigation through management conditions.

The Minister recognised that DWER's assessment of principle (g) is accurate, however, considered there was merit in the permit being amended to treat water erosion and nutrient export risks equally with wind erosion. The Minister also considered that risks associated with the management of storm water and wind erosion are a matter for the planning system and noted that development approval has recently been secured for the proposal.

## **Appendix A - References and databases**

### **1. References**

Department of Water and Environmental Regulation (DWER) (2022) Purpose permit and decision report: CPS 9420/1 [Index of /permit/9420 \(dwer.wa.gov.au\)](https://www.dwer.wa.gov.au/index.php/permit/9420)

Office of the Appeals Convenor (2023) Report to the Minister for Environment – Appeal against decision to grant a clearing permit – Clearing Permit CPS 9420/1.

Trudgen, M.E. (1991) Vegetation condition scale in National Trust (WA) 1993 Urban Bushland Policy. National Trust of Australia (WA), Wildflower Society of WA (Inc.), and the Tree Society (Inc.), Perth.