

CLEARING PERMIT

Granted under section 51E of the Environmental Protection Act 1986

Purpose Permit number: CPS 9420/3

Permit Holder: Kimberley Cotton Company Ltd

Duration of Permit: 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 a levee bank/earth wall and 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 66.1 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 | (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 2020 (GDA2020), expressing the geographical coordinates in Eastings and Northings; |
| | | (c) the date that the area was cleared; |
| | | (d) the size of the area cleared (in hectares); |
| | | (e) actions taken to avoid, minimise, and reduce the impacts and extent of clearing in accordance with condition 4; |
| | | (f) actions taken to minimise the risk of the introduction and spread of <i>weeds</i> in accordance with condition 5. |
| | | (g) actions taken to minimise the risk to fauna in accordance with condition 6. |
| | | (h) actions taken to minimise the risk of wind erosion, water erosion and nutrient export in accordance with condition 7. |

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 | Environmental Protection Act 1986 (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. | | | | | |
| | means any plant – | | | | | |
| | (a) that is a declared pest under section 22 of the <i>Biosecurity and Agriculture Management Act 2007</i> ; or | | | | | |
| weeds | (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

Ryan Mincham

MANAGER

NATIVE VEGETATION REGULATION

Officer delegated under Section 20 of the Environmental Protection Act 1986

15 April 2024

Schedule 1

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

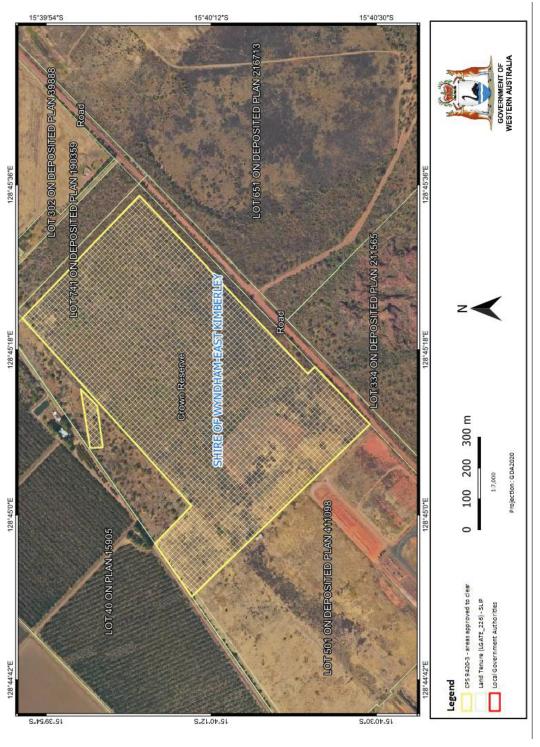


Figure 1: The area cross-hatched yellow indicates the area within which clearing is authorised under the granted clearing permit.

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CPS 9420/3, 15 April 2024



Clearing Permit Decision Report

1 Application details and outcome

1.1. Permit application details

Permit number: CPS 9420/3

Permit type: Purpose permit

Applicant name: Kimberley Cotton Company Ltd

Application received: 15 December 2023

Application area: 66.1 hectares of native vegetation

Purpose of clearing: The construction of cotton ginning facilities and a levee bank / earth wall

Method of clearing: Mechanical

Property: Lot 501 on Deposited Plan 421305 (Crown Reserve 53889)

Location (LGA area/s): Shire of Wyndham-East Kimberley

Localities (suburb/s): Kununurra

1.2. Description of clearing activities

Kimberley Cotton Company Ltd was authorised to clear up to 65.33 hectares (ha) of native vegetation for the preliminary groundworks and construction of cotton ginning facilities, including laydown areas for cotton storage under clearing permit CPS 9420/1 which was granted on 27 October 2022. The Department of Water and Environmental Regulation's (DWER) decision to grant CPS 9420/1 was appealed, with the clearing permit subsequently amended to give effect to the Minister for Environment's (the Minister) determination to allow the appeal in part (Appeal number: 039 of 2022). Amended clearing permit CPS 9420/2 was granted on 10 February 2023 with additional requirements imposed under the permit conditions to mitigate the potential for wind erosion, water erosion and nutrient export.

On 15 December 2023, the permit holder applied to amend CPS 9420/2 to increase the amount of authorised clearing by 0.63 ha to allow for the construction of a levee bank / earth wall on the property. The levee would function as additional acoustic screen separating the ginning facilities and neighbouring residence to the north of the property. The total amount of clearing proposed for authorisation under CPS 9240/3 is 66.1 ha.

The applicant has advised that clearing under CPS 9420/2 was partially conducted between 16 and 23 March 2023. The remaining balance of the clearing was not completed due to the request by the neighbour to build the levee bank / earth wall.

1.3. Decision on application

Decision: Granted

Decision date: 15 April 2024

Decision area: 66.1 hectares of native vegetation as depicted in Section 1.5, below.

1.4. Reasons for decision

This clearing permit amendment application was submitted, accepted, assessed and determined in accordance with sections 51E and 51O of the *Environmental Protection Act 1986* (EP Act). DWER advertised the application for fourteen (14) days and no submissions were received.

In making this decision, the Delegated Officer had regard for the site characteristics (see Appendix A), relevant datasets (see Appendix D.1), the findings of a botanical survey and information provided by the applicant, the clearing principles set out in Schedule 5 of the EP Act (see Appendix B), relevant planning instruments and any other matters considered relevant to the assessment (see Section 3.3). Specifically, the Delegated Officer has taken the following into consideration:

- the additional area of 0.63 ha is within the boundaries of the flora survey (Willing, 2022) undertaken in support of the previous clearing permit application (CPS 9420/1);
- the additional area proposed to be cleared will not result in additional impacts to biodiversity, flora, fauna, vegetation extent, priority ecological communities (PEC), land degradation and weed risks relative to those previously assessed under clearing permit CPS 9420/1; the additional 0.63 ha of proposed clearing will reduce the distance between the clearing area and the identified priority flora species *Dolichandrone filiformis* (Priority 2) located outside of the clearing envelope, from 65 m in CPS 9420/1 and CPS 9420/2, to 35 m in the proposed amended permit.

The Delegated Officer has determined that the proposed additional clearing of 0.63 ha is not likely to lead to an unacceptable risk to environmental values.

1.5. Site map

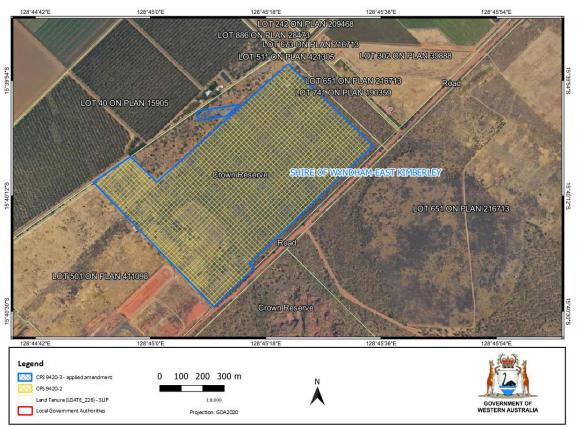


Figure 1 Map of the application area

The area cross-hatched yellow indicates the area within which clearing was authorised under CPS 9420/2. The area outlined blue indicates the area within which clearing is authorised under CPS 9420/3

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 510 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)
- Conservation and Land Management Act 1984 (WA) (CALM Act)
- Planning and Development Act 2005 (WA) (P&D 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 Flora and Vegetation Surveys for Environmental Impact Assessment (EPA, 2016)

3 Detailed assessment of application

3.1. Avoidance and mitigation measures

Similar to CPS 9420/2, the applicant is committed to minimising the amount of clearing (Kimberley Cotton Company Ltd, 2023). The Delegated Officer was satisfied that the applicant has undertaken reasonable measures to avoid and minimise potential impacts of the proposed clearing on environmental values.

3.2. Assessment of impacts on environmental values

A review of current environmental information (Appendix C) reveals that the assessment against the clearing principles has not changed substantially from the previous assessment of CPS 9420/1 and CPS 9420/2.

3.2.1. Biological values – biodiversity, significant vegetation, flora, and riparian vegetation - Clearing Principles (a), (c), and (f)

Assessment

Significant vegetation and biodiversity

The additional area proposed to be cleared is within the survey area of the botanical survey performed by Willing (2022) (see Figure 2 for survey map). The area is part of an area that was previously cleared in approximately 2009 under Clearing Permit CPS 2370/1. Although Willing (2022) did not specify the vegetation condition, the survey described the presence of 22 weed species and the disturbed nature of the site from historic clearing and earthworks. To describe the abundance of weeds, Willing (2022) stated that that the heavy thatching of both weeds and grasses is considered detrimental for the establishment and survival of many native herb species that might otherwise be expected. In consideration of the vegetation description, the remainder of the application area is likely to support regrowth native vegetation ranging in condition from 'very poor' to 'good' (Trudgen, 1991). Given the above, the proposed additional clearing area of 0.61 ha vegetation is unlikely to have impact on biodiversity locally or regionally. The assessment of impacts of the amended clearing area on biodiversity and vegetation has not changed from CPS 9420/1 and CPS 9420/2.



Figure 2. Tracklog and waypoints for GPS for the botanical survey (Willing, 2022). The additional clearing area comprising the proposed amendment was traversed as part of the survey.

Significant flora

Assessment of conservation significant flora records from within the local area (50 km radius from the application area) has been performed for CPS 9420/1 and CPS 9420/3. Given the small extent and the proximity of the additional area to the area authorised under CPS 9420/2, the search for flora records within 50 km radius of the proposed amended area provides the same result as that of for CPS 9420/1 and CPS 9420/2.

Willing (2022) recorded two Priority flora species over the property; single individuals of *D. filiformis* (P2) and *Brachychiton tuberculatus* (P3) (Figure 3). One individual of *B. tuberculatus* (P3) was recorded in the clearing area authorised by CPS 9420/2. The clearing of *B. tuberculatus* had been assessed as unlikely to affect local populations, or the conservation status of this species (see CPS 9420/1 decision report). The assessment that the clearing authorised under CPS 9420/1 would not have a significant impact on *B. tuberculatus* was affirmed by the Minister's Appeal determination for appeal number 039 of 2022. No *B. tuberculatus* was recorded within the additional clearing area.

D. filiformis is a shrub or tree of up to four metres (m) in height that occurs on sandstone and sandy soils. Nine records of *D. filiformis* are included within the WAH (1998-) database over a range of approximately 210 kilometres. The nearest record outside of the application area is located at a distance of approximately 47.1 km. One *D. filiformis* individual was identified by Willing (2022) during the botanical survey over the site. It is located approximately 65 m outside of the perimeter of the area approved under CPS 9420/2. The proposed amendment would reduce the separation distance between the identified flora and the perimeter of the application area to approximately 35 m. Given the location of the priority flora being outside of the amended clearing envelope, the proposed clearing will not remove this individual and is unlikely to have impact on the species and its conservation value.

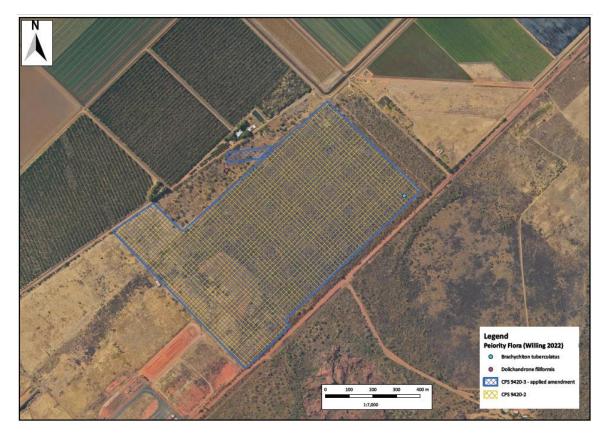


Figure 3. The location of the *Dolichandrone filiformis* (P2) and *Brachychiton tuberculatus* (P3) individual (Willing, 2022).

Priority Ecological Community

The application area for the previously approved CPS 9420/1, CPS 9420/2 and the current CPS 9420/3 lies within the Ord River catchment on the fertile Ivanhoe Plain. Soils of the Ivanhoe Plain have been described and mapped by Aldrick *et al.* (1990) with sediments associated with the alluvial plain being predominantly clayey alluvium. The Ivanhoe Land System has been listed as a Priority Ecological Community (PEC) (Priority 3) by DBCA. However, the survey over the application area by Willing (2022), which included the soil assessment, concluded that the soil types associated with the PEC comprise very small areas within the Depressed Peripheral Zone situated on the alluvial plain areas of the northwest of the application area (Figure 4). The area is outside of the clearing area authorised by CPS 9420/2 as well as the proposed amendment area for CPS 9420/3. Given that the additional clearing area for the amendment is also located outside of the Depressed Peripheral Zone, the proposed amended clearing will also not impact on the PEC.

Riparian vegetation

Two natural minor ephemeral waterlines traverse the application area (Figure 5). These drainages lines flow south-north and terminate in the area where additional clearing area is proposed and the levee bank and earth wall are to be built. The vegetation and flora survey by Willing (2022) over the application area did not record riparian vegetation. The DEC (2008) report detailing a site visit prior to the area being cleared states that the vegetation is not riparian and that the drainage lines dissecting the application area do not possess watercourse-like characteristics. Given the above, and consistent with the assessment for CPS 9420/1 and CPS 9420/2, it is determined that the proposed amendment will not remove or impact on native vegetation growing in, or in association with, an environment associated with a watercourse.

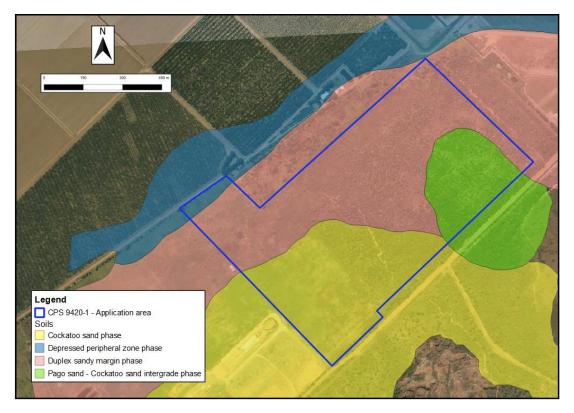


Figure 4. Soil types within the application area (Willing, 2022). The Ivanhoe Land System PEC occurs within the Depressed Peripheral Zone Phase (shaded blue).



Figure 5. Two ephemeral waterlines traverse the application area and drain into the area where the levee bank is proposed to be built.

Weeds

The clearing area authorised under CPS 9420/2 and the proposed amendment area under CPS 9420/3 are both infested with weeds and grass (Willing, 2022). The potential for spread and introduction of weeds due to clearing remains the same as previously assessed under CPS 9420/2, with the same weed management conditions to be imposed on clearing permit CPS 9420/3.

Conclusion:

Based on the above, the additional clearing proposed under the amendment will not have impacts on the Ivanhoe Land System PEC, riparian vegetation or *D. filiformis* (P2) individuals. The assessment of the potential for spread and introduction of weeds into the adjacent vegetation has not changed as a result of the amendment to CPS 9420/2.

Condition:

To address the potential impact of clearing, the following management measures will be required as conditions on the clearing permit:

• Weed management condition.

3.3. Relevant planning instruments and other matters

Planning and other matters have not changed from the Clearing Permit Decision Report CPS 9420/1 and CPS 9420/2.

The Shire of Wyndham-East Kimberley has no in-principle objection to the proposed amendment to the Clearing Permit (Shire, 2024). The Shire confirmed that the site is zoned Agriculture – State or Regional Significance zone under Local Planning Scheme No. 9 (LPS 9) and a development approval has been granted for the site on 29 January 2023, which included the construction of the levee bank / earth wall.

End

Appendix A. Site characteristics

A.1. Site characteristics

The assessment of site characteristics for the amendment area remains the same as those assessed under CPS 9420/1 and CPS 9420/2.

A.2. Vegetation extent

The assessment of the vegetation extent within the local area (50 km radius of the application area) undertaken for CPS 9420/1 and CPS 9420/2 remains the same for the amendment area.

A.3. Flora analysis table

The amendment has not changed the assessment of impacts to the conservation significant flora species recorded within 50 km from the application area for CPS 9420/1 and CPS 9420/2. The amendment clearing envelope will encroach within 35 m of *Dolichandrone filiformis* (P2).

| Species name | Conservation status | Suitable habitat features ? [Y/N] | Suitable vegetation type? [Y/N] | Suitable soil type? [Y/N] | Distance of closest record to application area (km) | Number of known records (total) | Distance of identified plant to the application area |
|---------------|---------------------|--|---------------------------------------|---------------------------------|---|--|--|
| D. filiformis | P2 | N | N/A | Υ | 47.1 | 9 | 35 m |

T: threatened, CR: critically endangered, EN: endangered, VU: vulnerable, P: priority

A.4. Fauna analysis table

The amendment does not change the analysis of impacts of clearing on conservation significant fauna species recorded within 50 km from the application area assessed under CPS 9420/1 and CPS 9420/2.

A.5. Ecological community analysis table

The amendment does not change the analysis of impacts on ecological communities assessed under CPS 9420/1 and CPS 9420/2.

A.6. Land degradation risk table

The amendment does not change the land degradation risk analysis conducted for CPS 9420/1 and CPS 9420/2.

Appendix B. Assessment against the clearing principles

The assessment against the clearing principles for the amendment remains the same as the previously assessment for CPS 9420/1 and CPS 9420/2.

Appendix C. Vegetation condition rating scale

Vegetation condition is a rating given to a defined area of vegetation to categorise and rank disturbance related to human activities. The rating refers to the degree of change in the vegetation structure, density and species present in relation to undisturbed vegetation of the same type. The degree of disturbance impacts upon the vegetation's ability to regenerate. Disturbance at a site can be a cumulative effect from a number of interacting disturbance types.

Considering its location, the scale below was used to measure the condition of the vegetation proposed to be cleared. This scale has been extracted from 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.

Measuring vegetation condition for the Eremaean and Northern Botanical Provinces (Trudgen, 1991)

| Condition | Description | | | | |
|---------------------|--|--|--|--|--|
| Excellent | Pristine or nearly so, no obvious signs of damage caused by human activities since European settlement. | | | | |
| Very good | Some relatively slight signs of damage caused by human activities since European settlement. For example, some signs of damage to tree trunks caused by repeated fire, the presence of some relatively non-aggressive weeds, or occasional vehicle tracks. | | | | |
| Good | More obvious signs of damage caused by human activity since European settlement, including some obvious impact on the vegetation structure such as that caused by low levels of grazing or slightly aggressive weeds. | | | | |
| Poor | Still retains basic vegetation structure or ability to regenerate it after very obvious impacts of human activities since European settlement, such as grazing, partial clearing, frequent fires or aggressive weeds. | | | | |
| Very poor | Severely impacted by grazing, very frequent fires, clearing or a combination of these activities. Scope for some regeneration but not to a state approaching good condition without intensive management. Usually with a number of weed species present including very aggressive species. | | | | |
| Completely degraded | Areas that are completely or almost completely without native species in the structure of their vegetation; i.e. areas that are cleared or 'parkland cleared' with their flora comprising weed or crop species with isolated native trees or shrubs. | | | | |

Appendix D. Sources of information

D.1. GIS databases

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

- 10 Metre Contours (DPIRD-073)
- Aboriginal Heritage Places (DPLH-001)
- Aboriginal Heritage Places (DPLH-001)
- Cadastre (LGATE-218)
- Cadastre Address (LGATE-002)
- Contours (DPIRD-073)
- 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)
- Flood Risk (DPIRD-007)
- Groundwater Salinity Statewide (DWER-026)
- Hydrography Inland Waters Waterlines
- Hydrological Zones of Western Australia (DPIRD-069)
- IBRA Vegetation Statistics
- Imagery
- Local Planning Scheme Zones and Reserves (DPLH-071)
- Native Title (ILUA) (LGATE-067)
- Offsets Register Offsets (DWER-078)
- Pre-European Vegetation Statistics
- Public Drinking Water Source Areas (DWER-033)
- Ramsar Sites (DBCA-010)
- Regional Parks (DBCA-026)
- Remnant Vegetation, All Areas
- RIWI Act, Groundwater Areas (DWER-034)
- RIWI Act, Surface Water Areas and Irrigation Districts (DWER-037)
- Soil Landscape Land Quality Flood Risk (DPIRD-007)
- Soil Landscape Land Quality Phosphorus Export Risk (DPIRD-010)
- Soil Landscape Land Quality Subsurface Acidification Risk (DPIRD-011)
- Soil Landscape Land Quality Water Erosion Risk (DPIRD-013)

- Soil Landscape Land Quality Water Repellence Risk (DPIRD-014)
- Soil Landscape Land Quality Waterlogging Risk (DPIRD-015)
- Soil Landscape Land Quality Wind Erosion Risk (DPIRD-016)
- Soil Landscape Mapping Best Available
- Soil Landscape Mapping Systems
- Wheatbelt Wetlands Stage 1 (DBCA-021)

Restricted GIS Databases used:

- Threatened Flora (TPFL)
- Threatened Flora (WAHerb)
- Threatened Fauna
- Threatened Ecological Communities and Priority Ecological Communities
- Threatened Ecological Communities and Priority Ecological Communities (Buffers)

D.2. References

- Commonwealth of Australia (2001) National Objectives and Targets for Biodiversity Conservation 2001-2005, Canberra.
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- Government of Western Australia. (2019) 2018 Statewide Vegetation Statistics incorporating the CAR Reserve Analysis (Full Report). Current as of March 2019. WA Department of Biodiversity, Conservation and Attractions. https://catalogue.data.wa.gov.au/dataset/dbca-statewide-vegetation-statistics
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- Willing, T. (2022) A Botanical Survey of Lot 510 Mulligan's Lagoon Road (Proposed Cotton Gin Block) Kununurra. Report Prepared for Kimberley Cotton Company. Tim Willing and Henry Smolinski. PO Box 702. Broome, WA, 6725 (DWERDT590843)