



Section 70(2)
Environmental Protection Act 1986

VEGETATION CONSERVATION NOTICE

CPS 10079/1

Person to whom this vegetation conservation notice is given ("the Owner"):

(being the owner of the land described below)

HARD AS PTY LTD ACN: 658 380 324

Land to which this vegetation conservation notice relates ("the land"):

Lot 1238 on Deposited Plan 249915 as comprised on Certificate of Title Volume 1716 Folio 766, and
Lot 1863 on Deposited Plan 89208 as comprised on Certificate of Title Volume 1716 Folio 767.

Reasons for which this vegetation conservation notice is served:

This vegetation conservation notice (**the Notice**) is given because I suspect on the following grounds that unlawful clearing has taken place on the land:

- (a) Examination of aerial and satellite imagery has shown the land contained native vegetation.
- (b) Satellite imagery from 14 August 2022 showed native vegetation present on the property.
- (c) Satellite imagery on the 24 August 2022, 29 August 2022, 18 September 2022, 28 September 2022, 3 October 2022, 13 October 2022, and 12 December 2022 progressively showed native vegetation being not present.
- (d) A site inspection of the land by Department of Water and Environmental Regulation (DWER) Inspectors on 13 December 2022 and 16 February 2023, confirmed that clearing had been carried out.
- (e) On the 13 December 2022 during the site inspection of the property, inspectors observed machinery being operated within the property, excavating, and moving sand to constructed levies within the property and clearing native vegetation.
- (f) I suspect on reasonable grounds that the clearing was not authorised by:
 - a clearing permit; or
 - by exemption under the *Environmental Protection Act 1986*; or
 - by exemption under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*; or
 - by a notice issued under section 51DA(5) of the *Environmental Protection Act 1986*.
- (g) I suspect on reasonable grounds that unlawful clearing of native vegetation, constituting a contravention of section 51C of the *Environmental Protection Act 1986*, has taken place.

Requirements of this vegetation conservation notice:

The person(s) to whom this Notice is given, and each subsequent owner and occupier of the land who is bound by this Notice, are required to undertake the following specified measures, for a period of fifteen (15) years from the date this notice is given, necessary for the following purposes:

- a) to repair any damage caused by the clearing; and
- b) re-establish and maintain vegetation on an area affected by the clearing to a condition as near as possible to the condition of the vegetation before the clearing occurred;

and to monitor, keep records of and report to the CEO on the required action.

1. No unlawful clearing

Ensure that no unlawful clearing, or further unlawful clearing, takes place on the land.

2. Cultivation prohibited

Ensure no cultivation, including scraping, raking, ploughing, mechanical movement of soil or seeding of non-native crops, is carried out within the *specified areas* other than for purposes required under this vegetation conservation notice or for the purpose of complying with a written firebreak notice.

3. Exclusion of Livestock

Ensure that *livestock* are excluded from the *specified areas* and not cause or permit *livestock* to enter or remain within the *specified areas*.

4. Establish Monitoring and Control Quadrats

a) CONTROL QUADRATS

- i) Establish four (4) square control monitoring quadrat, ten metres by ten metres, with the north-western point of the quadrat located at the coordinates set out in the below table.

Control Quadrat	Longitude - Degrees East	Latitude – Degrees South
1	115.5883832	-31.2664262
2	115.5851189	-31.2657342
3	115.5827660	-31.2631389
4	115.5851824	-31.2560166

- ii) Mark the control quadrat by placing a metal star picket at the north-western point
iii) All control quadrats must be established by 1 September 2023.

b) MONITORING QUADRATS

- i) Establish six (6) square monitoring quadrats, ten metres by ten metres with the north-western point of each quadrat located at the coordinates set out in the below table:

Monitoring Quadrat	Longitude - Degrees East	Latitude – Degrees South
1	115.5872312	-31.2657691
2	115.5832346	-31.2625684
3	115.5901205	-31.2654058
4	115.5901724	-31.2637449
5	115.5846360	-31.2566514
6	115.5864353	-31.2551981

- ii) Mark each quadrat by placing a metal star picket at the north-western point.
iii) All monitoring quadrats must be established by 1 September 2024

5. Monitoring

Engage an *environmental specialist* to:

- a) In the month of September or October 2023, carry out one vegetation survey within the control monitoring quadrats as defined in measure 4 of this VCN to determine:
- the species composition, structure, density and *vegetation condition* of native vegetation;
 - the *percentage cover* of vegetation that is *weed species*.
 - Obtain one photograph into the control monitoring quadrat showing the north-western marker and vegetation within the quadrat.
- b) In the month of September or October biennially for a period of fifteen (15) years, carry out one vegetation survey within each monitoring quadrat as defined in measure 4 of this VCN to determine:

- i. the species composition, structure, density and *vegetation condition* of native vegetation;
- ii. the *percentage cover* of vegetation that is *weed species*;
- iii. the first vegetation survey to be carried out in the month of September or October 2025.
- iv. Obtain one photograph into each monitoring quadrat showing the north-western marker and vegetation within the quadrat after each vegetation survey.

6. Revegetation

Undertake *revegetation* within the *specified areas* so as to achieve a species composition, structure, density and *vegetation condition* of native vegetation similar to pre-clearing species composition, structure, density and *vegetation condition* by:

- a) deliberately planting and/or seeding native vegetation; and
- b) ensure only *local species* are used in the *revegetation*; and
- c) ensure that the *local species* used in revegetation include the species identified during the vegetation survey of the control monitoring quadrats as defined in measure 5(a); and
- d) Ensure that initial revegetation has been completed across all *specified areas* by November 2025.

7. Success of Revegetation

Where, for any reason, *revegetation* undertaken in accordance with measure 6 of this Notice is not achieved, each and every year for a period of fifteen (15) years after the giving of this notice, or until, in the opinion of the CEO, *revegetation* is achieved, whichever is the lesser period, continue to *revegetate* the *specified areas* in accordance with measure 6.

8. Weed control

Each and every year for a period of fifteen (15) years after the giving of this notice

- (a) remove or kill weed species within the specified areas during the month of July or August of each year so that the percentage cover that is weed species is equal to a pre-clearing percentage cover, consistent with the percentage of weed cover identified by monitoring of the control quadrat under measure 5(a)(ii); and
- (b) initial weed control must be completed by 31 August 2024.

9. Records must be kept

Maintain the following records for a period of fifteen (15) years from the date of the giving of this vegetation conservation notice:

- a) In relation to control quadrats:
 - (i) The species composition, structure, density and *vegetation condition* of native vegetation in the *specified area* as determined by the monitoring carried out under measure 5(a) of this notice
- b) In relation to the *revegetation of specified areas*:
 - (i) The date or dates of *revegetation* activities undertaken
 - (ii) Species planted or seeded
 - (iii) The number of each species planted or the quantity of seed for each species sown
 - (iv) A description of the *revegetation* activities undertaken
 - (v) The species composition, structure, density and *vegetation condition* of native vegetation in the *specified area* as determined by the monitoring carried out under measure 5(b) of this notice.
- c) In relation to weed control of *specified areas*:
 - (i) The date or dates on which *weed species* control activities were carried out
 - (ii) A description of the *weed species* control activities carried out on each date

- (iii) The *percentage cover* of vegetation that is *weed species* within the *specified area* as determined by the monitoring carried out under measure 5(b) of this notice.

d) Each photograph obtained under measure 5(a)(iii) and 5(b)(iv) of this VCN.

10. Reporting

For a period of fifteen (15) years after the giving of this notice, provide to the *CEO*, a biennial written report of records kept under measure nine (9) of this notice for the proceeding two calendar years (1 January of the first year to 31 December the second year). The reports are to be provided to the *CEO* on or before the following dates:

Report No.	Reporting Period	Due Date
1	Giving of VCN – 31 December 2024	30 June 2025
2	1 January 2025 – 31 December 2026	30 June 2027
3	1 January 2027 – 31 December 2028	30 June 2029
4	1 January 2029 – 31 December 2030	30 June 2031
5	1 January 2031 – 31 December 2032	30 June 2033
6	1 January 2033 – 31 December 2034	30 June 2035
7	1 January 2035 – 31 December 2036	30 June 2037
8	1 January 2037 – 31 December 2038	30 June 2039

Definitions:

CEO means the Chief Executive Officer of the Department of the Public Service of the State through which the *Environmental Protection Act 1986* is administered.

coordinate means a point expressed in degrees longitude east and degrees latitude south in degrees in Geocentric Datum of Australia 2020.

environmental specialist means a person who holds a tertiary qualification in environmental science or equivalent and has experience in the assessment of Western Australian native vegetation.

Keighery scale means the vegetation condition scale described in *Bushland Plant Survey: A Guide to Plant Community Survey for the Community (1994)* as developed by B.J. Keighery and published by the Wildflower Society of WA (Inc). Nedlands, Western Australia.

livestock means any animal kept for domestic or commercial purposes and includes any horse, donkey, mule, cattle, sheep, swine, goat, buffalo, deer, camel or alpaca.

local species means flora species that are indigenous within a 20 kilometres radius of the land.

percentage cover means the area of ground covered by the canopy of each and every species of flora, including native flora, *weed species* within the *specified area* expressed as a percentage of the total cover of all species within the *specified area*.

revegetate, revegetated and revegetation means the re-establishment of a cover of native vegetation in an area such that the species composition, structure, density and *vegetation condition* is similar to pre-clearing vegetation in that area, and can involve natural regeneration, direct seeding and/or planting.

specified areas mean the portion of Lot 1238 on Deposited Plan 249915 and Lot 1863 on Deposited Plan 89208, Wanerie bounded by a line joining the GDA2020 coordinates set out consecutively in the tables below:

SPECIFIED AREA 1

Longitude - Degrees East	Latitude – Degrees South	Point
115.5818533	-31.2610409	1
115.5850535	-31.2618142	2
115.5856787	-31.2627068	3
115.5891339	-31.2646483	4
115.5910671	-31.2652570	5
115.5921407	-31.2651707	6
115.5925561	-31.2658082	7
115.5923998	-31.2660879	8
115.5927700	-31.2665404	9
115.5933705	-31.2666350	10
115.5934528	-31.2670669	11
115.5921653	-31.2670669	12
115.5920461	-31.2666720	13
115.5912234	-31.2668242	14
115.5899154	-31.2666761	15
115.5892614	-31.2663347	16
115.5890351	-31.2657835	17
115.5884017	-31.2657054	18
115.5884058	-31.2662442	19
115.5859502	-31.2667625	20
115.5851357	-31.2653187	21
115.5843789	-31.2634801	22
115.5840498	-31.2636282	23
115.5833259	-31.2629371	24
115.5818369	-31.2628837	25

then directly to the point of commencement.

SPECIFIED AREA 2

Longitude - Degrees East	Latitude – Degrees South	Point
115.5891421	-31.2611684	1
115.5898701	-31.2611767	2
115.5910918	-31.2635295	3
115.5912892	-31.2635130	4
115.5916074	-31.2651007	5
115.5911494	-31.2651624	6
115.5895616	-31.2646647	7
115.5888706	-31.2633485	8

then directly to the point of commencement.

SPECIFIED AREA 3

Longitude - Degrees East	Latitude – Degrees South	Point
115.5880192	-31.2559816	1
115.5885621	-31.2557142	2
115.5896480	-31.2577832	3
115.5897221	-31.2591858	4
115.5894094	-31.2594861	5
115.5887225	-31.2587498	6
115.5888871	-31.2579683	7

then directly to the point of commencement.

SPECIFIED AREA 4

Longitude - Degrees East	Latitude – Degrees South	Point
115.5864726	-31.2543404	1
115.5868510	-31.2545213	2
115.5869908	-31.2548381	3
115.5865425	-31.2563559	4
115.5859584	-31.2567302	5
115.5855100	-31.2564916	6

then directly to the point of commencement.

SPECIFIED AREA 5

Longitude - Degrees East	Latitude – Degrees South	Point
115.5829804	-31.2563847	1
115.5838359	-31.2561913	2
115.5840210	-31.2563147	3
115.5854854	-31.2563024	4
115.5851604	-31.2570675	5
115.5842555	-31.2568207	6
115.5839840	-31.2569400	7

then directly to the point of commencement.

Vegetation condition means the rating given to native vegetation using the *Keighery scale* and refers to the degree of change in the structure, density, and species present in the particular vegetation in comparison to undisturbed vegetation of the same type.

Weed species means any plant that is not indigenous species within 20 kilometres of the land.



Kelly Faulkner

EXECUTIVE DIRECTOR, COMPLIANCE AND ENFORCEMENT

DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION

Officer delegated under Section 20 of the Environmental Protection Act 1986

10th July 2023

Important Information:

A PERSON WHO IS BOUND BY THIS VEGETATION CONSERVATION NOTICE AND WHO DOES NOT COMPLY WITH THIS VEGETATION CONSERVATION NOTICE COMMITS AN OFFENCE UNDER THE *ENVIRONMENTAL PROTECTION ACT 1986*.

Under section 103 of the *Environmental Protection Act 1986*:

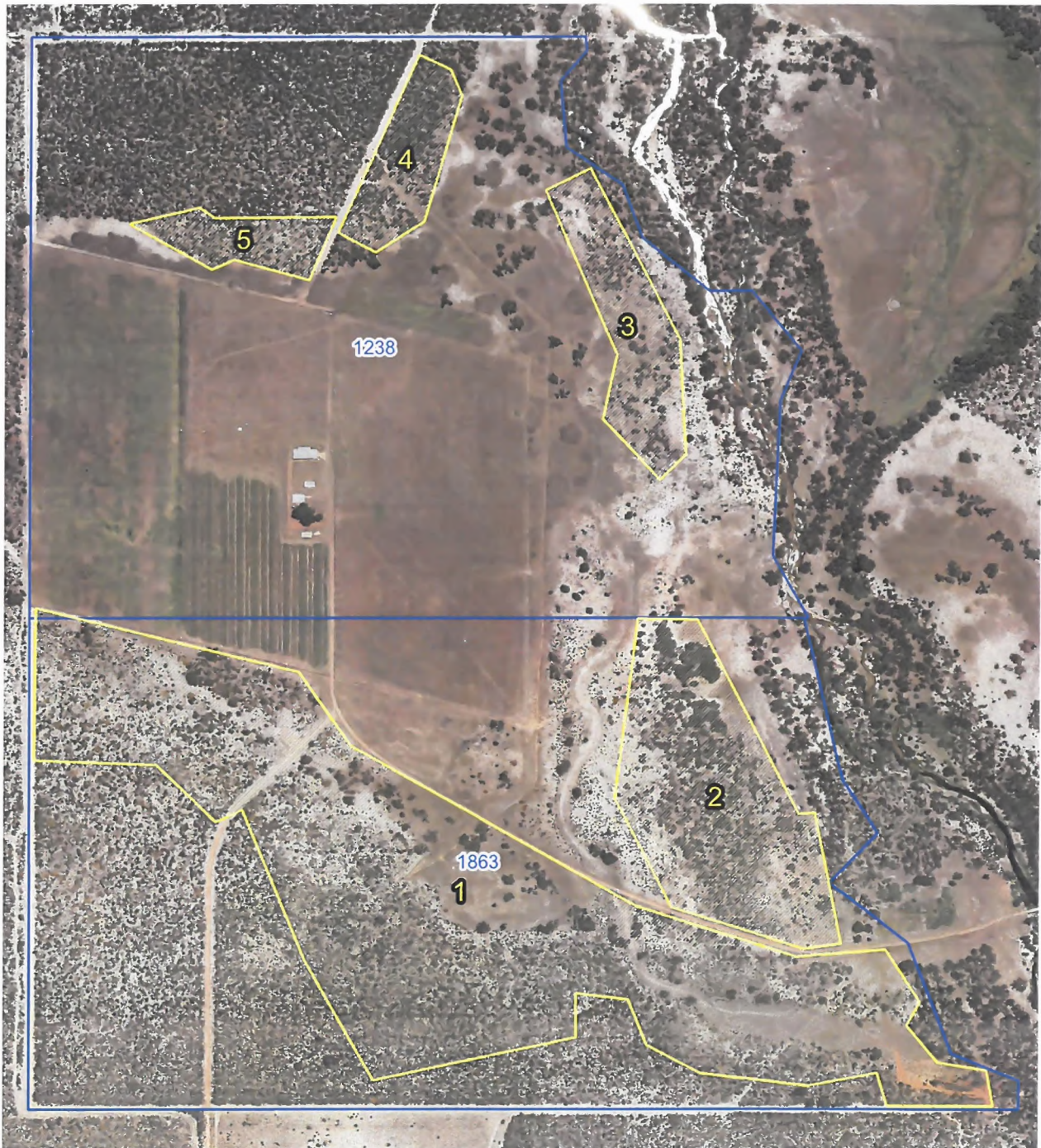
- a person who is aggrieved by a requirement contained in this vegetation conservation notice may within 21 days of being given this notice lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal; and
- any other person who disagrees with a requirement contained in this vegetation conservation notice may within 21 days of the making of that requirement lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal.

PENDING THE DETERMINATION OF AN APPEAL REFERRED TO ABOVE, THE RELEVANT REQUIREMENTS CONTAINED IN THIS VEGETATION CONSERVATION NOTICE CONTINUE TO HAVE EFFECT.



Government of Western Australia
Department of Water and Environmental Regulation

Vegetation Conservation Notice - Ref # CPS 10079/1
Lot 1238 on Deposited Plan 249915, Wanerie
Lot 1863 On Deposited Plan 89208, Wanerie
Specified Area



0 100 200 300 m

INDICATIVE PLAN

LEGEND

Property Boundary

1238

1863

VCN CPS 10079 Specified Area

Gingin_2017_50cm_z50

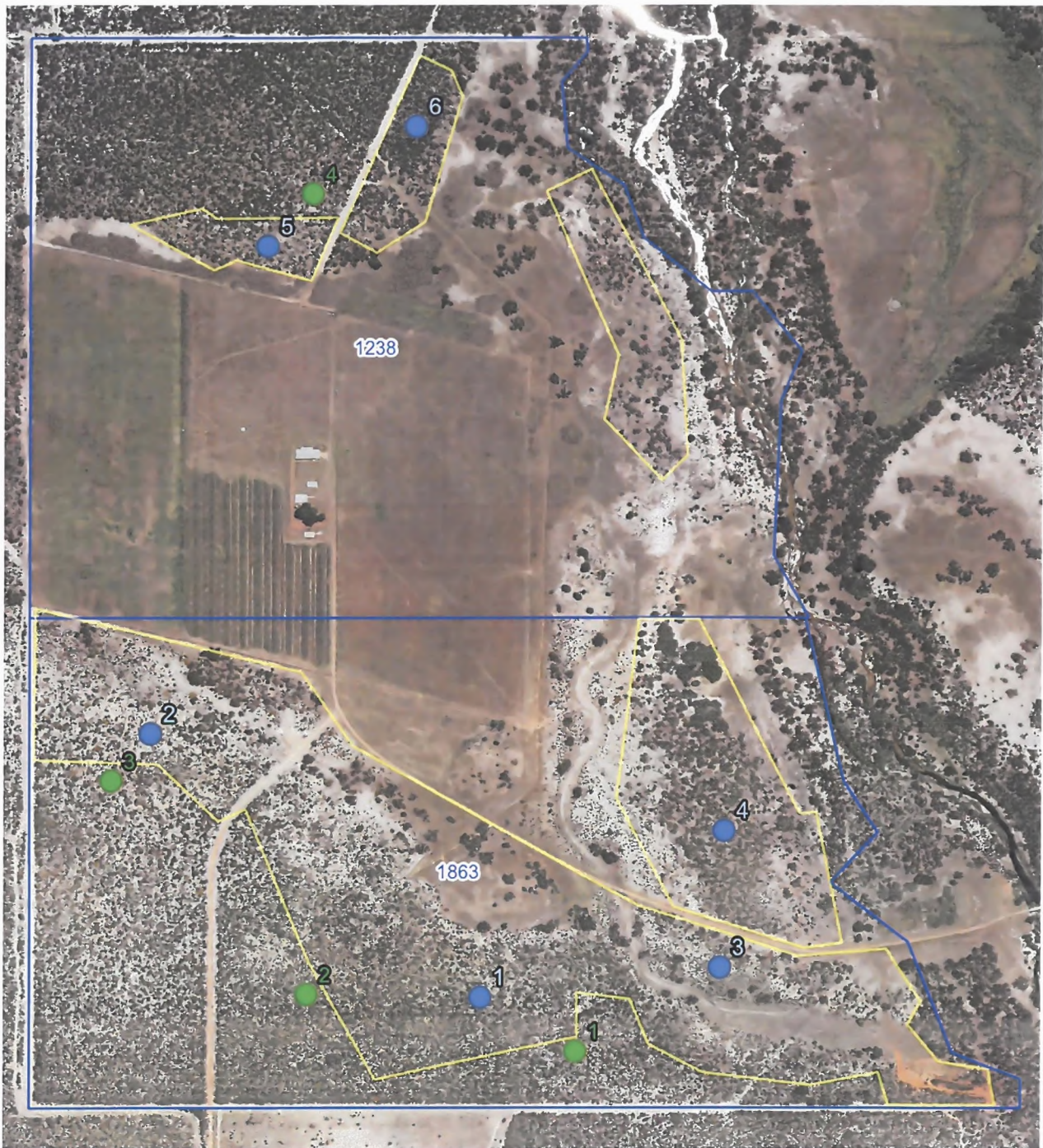
Produced by Senior Investigator Stuart Barter,
Investigations Branch on 22 February 2023

The Department of Water and Environmental Regulation does not guarantee that this map is without flaw of any kind and disclaims all liability for any errors, loss or other consequence which arises on any information depicted.



Government of Western Australia
Department of Water and Environmental Regulation

Vegetation Conservation Notice - Ref # CPS 10079/1
Lot 1238 on Deposited Plan 249915, Wanerie
Lot 1863 On Deposited Plan 89208, Wanerie
Specified Area - Control and Monitoring Quadrats



0 100 200 300 m

INDICATIVE PLAN

LEGEND

Property Boundary

1238

1863

VCN CPS 10079 Specified Area

VCN CPS 10079 Control Quadrats

VCN CPS 10079 Monitoring Quadrats

Gingin_2017_50cm_z50

Produced by Senior Investigator Stuart Barter,
Investigations Branch on 22 February 2023

The Department of Water and Environmental Regulation does not guarantee that this map is without flaw of any kind and disclaims all liability for any errors, loss or other consequence which arises on any information depicted.