

Environmental Protection Act 1986

Section 41A(3)

NOTICE OF DECISION TO CONSENT TO MINOR OR PRELIMINARY WORKS

PERSON TO WHOM THIS NOTICE IS GIVEN:

(a) Proponent: Lynas Kalgoorlie Pty Ltd
Suite 1, 45 Royal Street
EAST PERTH WA 6004

(b) Relevant Decision-Making Authorities, see Attachment 1

PROPOSAL TO WHICH THIS NOTICE RELATES:

Lynas Kalgoorlie Rare Earths Processing Facility
Assessment No. 2269

Pursuant to section 41A(3) of the *Environmental Protection Act 1986* (EP Act), the Environmental Protection Authority consents to the proponent undertaking the minor or preliminary works detailed in Schedule 1 subject to the following condition:

1. Undertake proposed works in accordance with the *Preliminary Works Construction Environmental Management Plan Lynas Rare Earths Processing Facility – Kalgoorlie (February 2021)*.

EFFECT OF THIS NOTICE:

1. The prohibition provided by sections 41(2), 41(3) and 41A(1) of the EP Act do not apply to implementing the minor or preliminary works consented to in this Notice.
2. It is an offence under s41A(1) of the EP Act, with a maximum penalty of \$125,000 for a body corporate and \$62,500 for an individual, to do anything to implement the proposal other than the minor or preliminary works consented to in this Notice.
3. Relevant decision-making authorities may make decisions that would cause or allow the doing of the minor or preliminary works listed in Schedule 1 of this Notice.

RIGHTS OF APPEAL:

There are no rights of appeal under the EP Act in respect of this consent.

A handwritten signature in blue ink, appearing to read 'M. Tonts', with a stylized flourish extending to the right.

Professor Matthew Tonts
Delegate of the Environmental Protection Authority
CHAIR

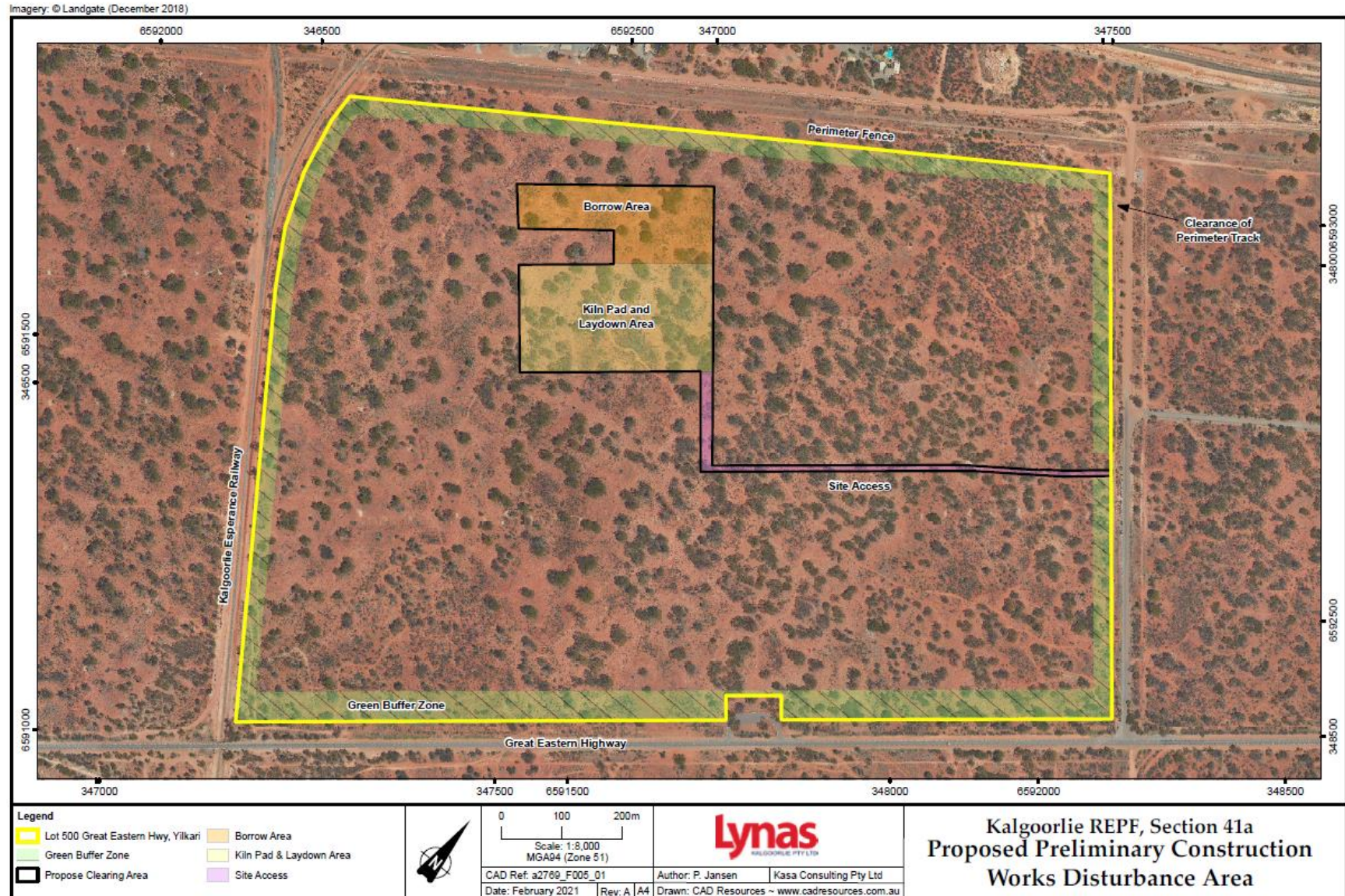
2 March 2021

Schedule 1

Authorised Minor or Preliminary Implementation Work (s)

Authorised Work(s)	Location	Authorised extent
<p>The following works are authorised in their entirety:</p> <p>1. preliminary construction activities at Lot 500 Great Eastern Highway, Yilkari.</p> <p>up until such time as the later of one of the following occurs:</p> <p style="margin-left: 40px;">a. notice issued under s 45(8) of the EP Act; or</p> <p style="margin-left: 40px;">b. statement issued under s45(5) of the EP Act is final (that is, after period in which to lodge an appeal under s 100(3) has expired, or appeal decision under s109(3), in respect of an appeal lodged under s 100(3), is published).</p> <p>and</p> <p>2. rehabilitation of the area/s identified in Figure 1 in accordance with current EPA rehabilitation guidance, or if an implementation statement is issued for the Proposal, in accordance with any implementation conditions relating to rehabilitation.</p>	<p>Figure 1</p>	<p>Clearing of no more than 10 hectares of native vegetation.</p> <p>Coordinates for Figure 1 are held by the Department of Water and Environmental Regulation.</p>

Figure 1 Location of the Minor or Preliminary Works



Attachment 1

Relevant Decision Making Authorities

Minister for Environment

Minister for Mines and Petroleum

Minister for Aboriginal Affairs

Chief Executive Officer, Department of Water and Environmental Regulation

Executive Director, Resource and Environmental Compliance, Department of Mines,
Industry Regulation and Safety

State Mining Engineer, Department of Mines, Industry Regulation and Safety

Chief Dangerous Goods Officer, Department of Mines, Industry Regulation and
Safety

Chief Executive Officer, City of Kalgoorlie-Boulder

Secretary, Radiological Council of Western Australia

Environmental Protection Act 1986

Section 41A(3)

STATEMENT OF REASONS

CONSENT TO UNDERTAKE MINOR or PRELIMINARY WORKS

Proposal: Lynas Kalgoorlie Rare Earths Processing Facility

Proponent: Lynas Kalgoorlie Pty Ltd

Decision

For the reasons outlined below, I, as a delegate of the Environmental Protection Authority (EPA) have determined to consent to the minor or preliminary works outlined in Schedule 1 attached to this Statement of Reasons.

Background

On 13 September 2020, Lynas Kalgoorlie Pty Ltd (the Proponent) referred the Lynas Kalgoorlie Rare Earths Processing Facility (the Proposal) to the Environmental Protection Authority (EPA) under section 38 of the *Environmental Protection Act 1986* (EP Act). The Proposal proposes to construct and operate a new Rare Earths Processing Facility at Lot 500 Great Eastern Highway, Yilkari and a By-product storage facility on Common Reserve 8767, Yarri Road, Parkerston in the City of Kalgoorlie-Boulder.

The Rare Earths Processing Facility will process rare earth concentrate from the Mt Weld mine to produce a rare earth carbonate for export.

The EPA determined to assess the Proposal at the level of Referral Information with updated referral document and additional information required (4-week public review) on 24 November 2020 and is yet to publish its assessment report.

In advance of a decision or agreement in relation to whether or not the Proposal may be implemented under section 45 (s45) of the EP Act, the Proponent has sought the EPA's consent to undertake minor or preliminary works related to the Proposal.

Relevant Statutory and Administrative Provisions

After the EPA decides to assess a proposal, and before a decision or agreement is made under s45 of the EP Act, all persons are prohibited from implementing a proposal. Relevant decision making authorities are prohibited from making a decision which would allow the proposal to be implemented, except in relation to minor or preliminary works which the EPA has consented may be implemented – see sections 41(4) and 41A(3) of the EP Act.

If the EPA consent to the minor or preliminary works being done, the person proposing to undertake those works may still need to obtain other authorisations from other decision making authorities.

Section 3.5 of the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual* guides what information the EPA requires from a person wanting to undertake minor or preliminary works.

In considering the request for consent, I considered whether the:

- work is associated with the implementation of the proposal
- potential environmental impacts of the work are significant
- work would constitute the irreversible and substantial implementation of the proposal, and
- work is justified.

Materials considered in making this decision

In determining whether to consent to the minor or preliminary works I have considered the following:

1. *Section 41A(3) Request for Consent to Undertake Preliminary Work Lynas Rare Earth Processing Facility – Kalgoorlie* (version 2, February 2021) (DWERDT414003)
2. *Preliminary Works Construction Environmental Management Plan Lynas Rare Earths Processing Facility – Kalgoorlie* (version 0, February 2021) (DWERDT414003 – Appendix B)
3. *Section 38 Referral – Supporting Document Lynas Kalgoorlie Rare Earths Processing Facility* (version 1, September 2020) (DWERDT351254)
4. *Detailed Flora and Vegetation Survey Lot 500 Great Eastern Highway, Yilkari* (version 2, April 2020) (DWERDT351254 – Appendix C)
5. *Level 1 Vertebrate Fauna Risk Assessment for Lot 500 Kalgoorlie West* (version 1, June 2018) (DWERDT351254 – Appendix D)
6. Comments from the Department of Water and Environmental Regulation (DWER) Process Industries (DWERDT409944)
7. Comments from the Department of Mines, Industry Regulation and Safety (DMIRS) (DWERDT407191)
8. Spatial data provided by the proponent (DWERDT414001)
9. DWER EPA Services internal investigations and inquiries.

Consideration

1. Proposed work associated with proposal

The proposed minor or preliminary works involve preliminary construction activities at Lot 500 Great Eastern Highway, Yilkari. The works will prepare a small part of the development footprint for its proposed use as a Rare Earth Processing Facility (REPF) as part of the proposal.

The proposed works are associated with the proposal.

2. Details of the proposed work

The proposed works are requested for preliminary construction activities for the REPF on Lot 500 Great Eastern Highway, Yilkari. No works are proposed at the Common Reserve 8767, Yarri Road, Parkerston. The extent of the preliminary works is shown in Figure 1 below.

The preliminary construction works consists of:

- Site access including temporary office and ablutions.
- Kiln pad and laydown area
- Borrow area

The proposed works will have a maximum disturbance footprint of 10 hectares (ha).

Justification

The works are requested due to the Proponent's timeframe to have its rare earth processing operation moved from its existing rare earth processing facility in Malaysia by 2023.

An environmental benefit from the preliminary works commencing in early 2021 is the works will commence outside of the dry, windy summer months. This will reduce the potential impact of dust on nearby sensitive receptors.

The extent and timing of the proposed works are considered justified.

3. Potential environmental impacts

The EPA set the level of assessment for the proposal at Referral Information with updated referral document and additional information required on 24 November 2020. The preliminary key environmental factors requiring evaluation during the assessment process are Flora and Vegetation, Terrestrial Fauna, Terrestrial Environmental Quality, Inland Waters, Air Quality, Human Health and Social Surroundings.

Flora and Vegetation

The proposed works will require the clearing of up to 10 ha of native vegetation. A flora and vegetation survey was undertaken over Lot 500 in November 2019 by Onshore Environmental. There were no Threatened or Priority Ecological Communities, Threatened or Priority Flora, or significant vegetation associations recorded within Lot 500.

A native vegetation clearing permit (CPS 8322/1) was previously granted over Lot 500 on 18 March 2019, that includes the area of the preliminary works and allowed for the clearing of up to 134.9 ha of native vegetation.

The proponent has included management measures to minimise the risk of indirect impacts from weeds to adjoining flora and vegetation in its *Preliminary Works Construction Environmental Management Plan*. The plan also includes a clearing disturbance procedure to ensure that clearing is restricted to 10 ha in the approved locations.

Terrestrial Fauna

The potential impacts to terrestrial fauna are from the clearing of up to 10 ha of native vegetation that would likely provide habitat for native fauna, an increase in introduced fauna and road fauna deaths.

A vertebrate fauna assessment for Lot 500 was undertaken by Terrestrial Ecosystems in 2018 consisting of a desktop review and site visit. The broad fauna habitat type in Lot 500 is an open eucalypt woodland with a mixed understory of scattered shrubs and chenopods. Four significant fauna species have the potential to use Lot 500 or the general area around it:

- Peregrine Falcon (*Falco peregrinus*)
- Western Rosella (*Platycercus icterotis xanthogenys*)
- Central Long-eared Bat (*Nyctophilus major tor*)
- Fork-tailed Swift (*Apus pacificus*)

There is unlikely to be a significant impact to these species from clearing as they are mobile and similar habitat is widespread in the region.

Malleefowl (*Leipoa ocellata*) have been observed in the bioregion, however there are no recent records of active breeding mounds in the vicinity of the project area and no mounds were recorded during the site visit.

To minimise the risk to terrestrial fauna the proponent will undertake the following management measures:

- A 30 metre (m) naturally vegetated buffer zone will be maintained around the site perimeter.
- Large eucalypt trees will be retained in the development envelope where possible.
- Clearing will be conducted progressively to allow any fauna within the site boundary to naturally migrate to surrounding habitats offsite.
- A designated wildlife spotter will be engaged to ensure fauna are not directly impacted during construction.
- All site personnel will be inducted on the potential impacts to native fauna and advised to report any injured and killed fauna.
- Domestic animals or pets will not be permitted on site and rubbish and food waste will be stored in bins that are not easily accessible for fauna.

Terrestrial Environmental Quality

The potential risks to soils from the works are erosion and contamination from hydrocarbon or chemical spills. Erosion impact is expected to be low due to the soil characteristics and flat topography of the site. There are unlikely to be acid sulphate soils present on Lot 500.

To minimise the risk to soils from erosion and contamination the proponent will undertake the following management measures:

- Civil infrastructure and drainage systems will be designed to minimise interference with natural offsite flow regimes.
- The use of non-erosive materials on surface slopes of respective storage facility landforms.

- Stormwater will be diverted from the site and either be allowed to infiltrate or will be managed in a way that prevents increased rates of sedimentation and erosion.
- Personnel will be trained in spill prevention and spill clean-up procedures.
- Where applicable, containment bunding, silt and oil traps will be established where necessary to remove sediments or pollutants from runoff before water enters local drainage.

Inland Waters

Potential impacts to surface water are through changes to overland flow and surface and groundwater from contamination through spills during construction.

There are no permanent surface water bodies at Lot 500. The nearest ephemeral stream is located approximately 120 m south of Lot 500. Surface water at the site largely drains to the south west, where it is likely to partially recharge shallow soil and/or evaporate. The depth to groundwater is over 35 m with the groundwater saline to hypersaline.

To minimise the changes to surface water regimes and risks to surface and groundwater during construction, the proponent will undertake the following management measures:

- Stormwater will be diverted from active areas during construction to natural downstream drainage in a way that prevents increased rates of sedimentation and erosion.
- All hazardous wastes will be properly stored on site until removed offsite for disposal.
- Vehicles and machines used during construction will be subject to regular mechanical inspections to minimise any leaks and spills of fuels, oils and hydraulic fluids.
- Fuel, oil and chemical storage tanks will include impervious secondary containment.
- Soil contamination from spills or leaks will be removed and disposed at a licenced waste facility, as needed.

Air Quality

Potential impacts to Air Quality are likely to be as a result of dust which may be generated from vegetation clearing and other construction activities. The proponent will implement the following management measures to minimise dust:

- Undertaking preliminary construction activities outside of the warmest and driest period (summer).
- Undertake ambient particulate monitoring around the perimeter of the site and/or at key sensitive receptor locations.
- Use appropriate dust suppression techniques, including the use of water carts and consolidation of exposed areas (for example use of chemical suppressants), where significant dust lift-off occurs.
- Regular visual inspections by the contractor's environmental personnel
- Implementation of a community complaints and incident management procedure.

The proponent will also install a meteorological station and a network of continuous particulate monitors at key locations to monitor baseline particulate concentrations as well as construction phase dust levels.

Human Health

No rare earth concentrate feed product will be transported to Lot 500 and no rare earth production activities will occur during preliminary construction works. The preliminary works will not involve radioactive materials, therefore, Human Health will not be impacted.

Social Surroundings

Potential impacts to Social Surroundings are likely to be from impacts to Aboriginal heritage and from noise. Noise will be generated from vegetation clearing, the operation of diesel-powered vehicles, heavy equipment and power generation during construction. There are three sensitive receptors nearby, with others in the vicinity. The closest sensitive receptor is 160 m north of the works.

The proponent will ensure noise emissions comply with *Environmental Protection (Noise) Regulations 1997*. The proponent proposed to implement the following management measures to reduce impacts from noise:

- Construction contractor specifications will require that all preliminary construction work will be carried out in accordance with control of noise practices set out in Section 4 of Australian Standard 2436 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- Vehicle operation will occur during prescribed hours (between 07:00 and 19:00).
- Equipment will be fitted with noise control devices where possible and appropriate.
- A community complaints procedure will be implemented for the life of the Proposal and the community will be notified of how to make a complaint.
- In accordance with the requirements of Regulation 13 of the Environmental Protection (Noise) Regulations 1997, a detailed Construction Noise Management Plan will be developed where construction activities will take place outside of the hours 07:00 and 19:00 or on Sundays or on Public Holidays.
- Noise monitoring may be undertaken if ongoing complaints are received.

An Indigenous Heritage Archaeological and Ethnographic survey was carried out in 2003 over a larger area that included Lot 500. No Registered Aboriginal Sites or Other Aboriginal Sites were recorded on Lot 500 during that survey. According to the Department of Planning, Lands and Heritage's Aboriginal Heritage Inquiry System, there are no Registered Aboriginal Sites on Lot 500. Lynas has undertaken consultation with Indigenous groups on the proposal.

Other approvals

The EPA considers that the management measures by the proponent for the minor or preliminary works will minimise the potential environmental impacts for each of the relevant key environmental factors. The EPA notes that other approvals are required that will also regulate the potential environmental impacts.

DWER Process Industries advised that a works approval application associated with the minor or preliminary works is under assessment. DWER Process Industries considered the activities listed in the minor or preliminary works application could be adequately managed under Part V of the EP Act.

The minor or preliminary works will require a Mining Proposal and Mine Closure Plan under the *Mining Act 1978* (Mining Act), which is regulated by the DMIRS. DMIRS considers that the proposed preliminary construction activities can be adequately managed under the Mining Act.

4. Proposed rectification actions

The proponent has outlined the rehabilitation procedures that will occur, should the proposal not proceed. The procedures are related to the clearing of native vegetation, topsoil handling, landform design and construction, revegetation and rehabilitation management and monitoring. The procedures include:

- Access roads, carparks and hardstands will be ripped and covered with stored topsoil and mulched vegetation that has been retained.
- Any concrete curbing or installed concrete, including kiln footings, will be removed and disposed of at an approved landfill facility.
- Buildings will be demountable to allow for easy decommissioning and removal.
- Surface water drainage structures will be decommissioned and removed.
- All excavations will be backfilled and re-contoured to original profile levels.
- Topsoil will be spread over recontoured surfaces then deep ripped.
- Direct seeding of local provenance native seeds will be undertaken over the area.

DWER Process Industries advised that the proposed works were not so significant that they cannot be reversed, should the proposal not proceed. DMIRS considered the works could be appropriately decommissioned and rehabilitated, should the proposal not proceed.

The EPA considers the rehabilitation procedures are appropriate to return up to 10 ha of disturbance to native vegetation of comparable values, and the proposed works are not considered to constitute irreversible substantial implementation of the proposal.

5. Summary

When considering the potential significance of the proposed works as per the *Statement of Environmental Principles, Factors and Objectives* (EPA 2020) the proposed works are not likely to have a significant effect on the environment and would be reversible through decommissioning and rehabilitation.

Schedule 1

Minor or Preliminary Works

Authorised Work(s)	Location	Authorised extent
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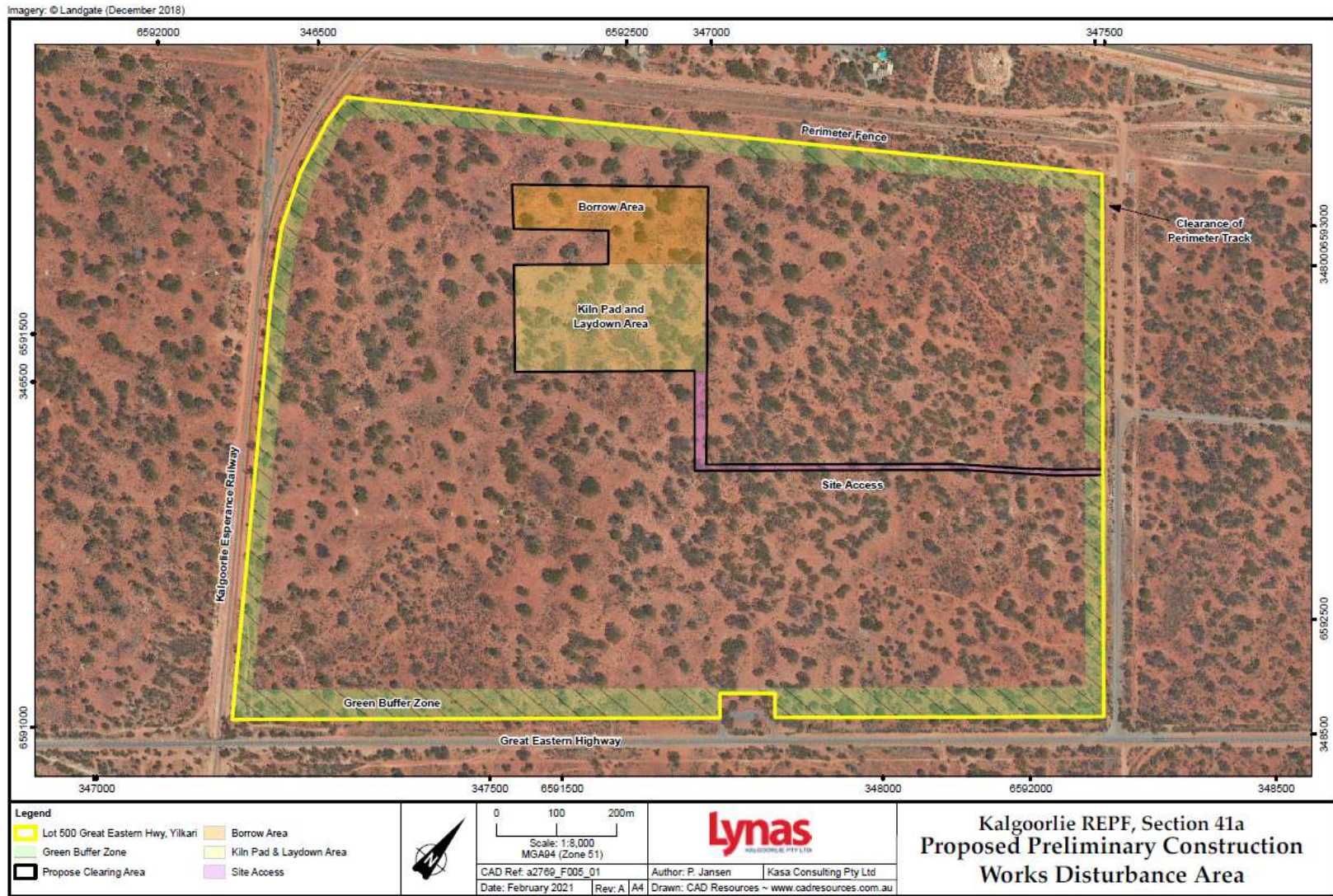


Figure 1 Extent of the Minor or Preliminary Works