



Clearing Permit Decision Report

1. Application details and outcomes

1.1. Permit application details

Permit number:	10080/2
Permit type:	Purpose Permit
Applicant name:	Beach Energy (Perth Basin) Pty Ltd
Application received:	27 September 2023
Application area:	4.87 hectares
Purpose of clearing:	Petroleum Appraisal Well
Method of clearing:	Mechanical Removal
Tenure:	Production Licence L11
Location (LGA area/s):	Shire of Irwin
Colloquial name:	Beharra Springs Project

1.2. Description of clearing activities

Beach Energy (Perth Basin) Pty Ltd proposes to clear up to 4.87 hectares of native vegetation within a boundary of approximately 4.87 hectares, for the purpose of constructing a petroleum appraisal well. The project is located approximately 30 kilometres southeast of Port Dennison, within the Shire of Irwin.

1.3. Decision on application and key considerations

Decision:	Grant
Decision date:	5 October 2023
Decision area:	4.87 hectares of native vegetation

1.4. Reasons for decision

On 27 July 2023, clearing permit CPS 10080/1 was granted to clear up to 6 hectares of native vegetation within a boundary of approximately 17.1 hectares, for the purpose of a petroleum appraisal well.

There was one appeal lodged against the grant of the permit, covering four grounds of appeal.

This clearing permit amendment gives effect to the determination of the Minister for Environment (Minister) that the decision to grant the permit was justified but allowed the appeal in part (Appeal number: 030 of 2023). The Minister determined that an offset is required to ensure that the significant residual impacts of the clearing are appropriately counterbalanced and consistent with the WA offsets framework (Minister for Environment; Climate Action, 2023). In response to the appeal, the applicant reduced the clearing area from 6 hectares to 4.87 hectares of native vegetation. This reduced the impact of Carnaby's cockatoo foraging habitat from approximately 2.1 hectares to 1.4 hectares.

As part of the determination, the following amendments were required to be made to CPS 10080/1:

- A reduction in the area authorised to be cleared to 4.87 hectares; and
- A biodiversity offset be required as a condition of the permit for the loss of 1.4 hectares of native vegetation that is foraging habitat for Carnaby's cockatoo.

Given the above, the Delegated Officer decided to grant a clearing permit to reflect the Minister's determination. The assessment against the clearing principles has not changed from the Clearing Permit Decision Report CPS 10080/1, except for principles (a) and (e).

It is noted that area authorised to clear granted by the Department differs to the area reflected in the Minister's determination (of 4.9 hectares - Minister for Environment; Climate Change, 2023). The shapefile provided to the Department by the applicant to reflect the Minister's determination had an area of 4.87 hectares, rather than 4.9 hectares. The Department cannot grant an area larger than the permit boundary, and the area of 4.87 hectares was deemed acceptable by the applicant (Beach Energy, 2023).

1.5. Site map

A site map of proposed clearing is provided in Figure 1 below.

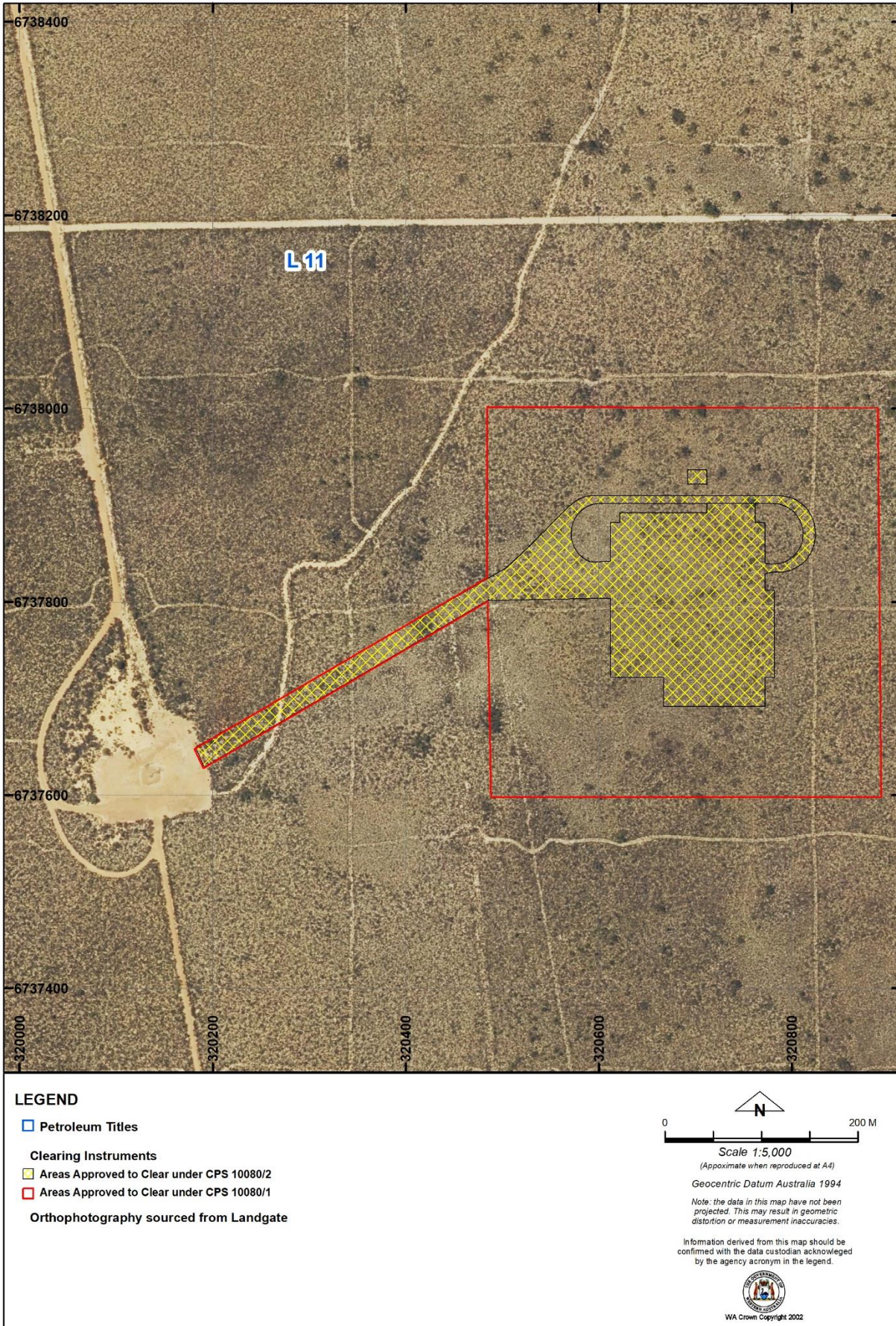


Figure 1. Map of the application area. The yellow area indicates the reduced clearing permit area within which conditional authorised clearing can occur under the granted clearing permit.

2. Assessment of application

2.1. Assessment of impacts on environmental values

The assessment against the clearing principles has not changed from the clearing permit decision report CPS 10080/1, except for principles (a) and (e).

Principle (a)

The Department previously considered the clearing is not likely to be at variance to principle (a), however following the appeal process and the report provided to the Minister from the Office of the Appeals Convenor (2023), the Department now considers the clearing is at variance with principle (a), noting that the clearing area:

- is mapped as kwongan vegetation which is recognised for its floristic diversity;
- is in the Lesueur Sandplain IBRA sub-region which is also recognised for its floristic diversity;
- conservation significant flora *Beyeria gardneri* (Priority 3) is recorded in the clearing area; and
- contains foraging habitat for black cockatoo species (OAC, 2023).

Principle (e)

The Department previously considered the clearing is not at variance to principle (e), however following the appeal process and the report provided to the Minister from the Office of the Appeals Convenor (2023), the Department now considers the clearing may be at variance with principle (e), noting that the clearing area:

- contains unusually high floristic diversity and endemism of the Lesueur Sandplains; and
- the area is approaching 'extensively cleared' for the purposes of clearing principle (e) (OAC, 2023).

During the appeal investigation, the applicant reduced the area authorised to clear from 6 hectares to 4.87 hectares of native vegetation. This reduced the impact of Carnaby's cockatoo foraging habitat from approximately 2.1 hectares to 1.4 hectares, and the clearing of the Priority 3 flora species *Beyeria gardneri* from nine plants down to one plant (OAC, 2023).

The Minister also determined that an offset is required to counterbalance the significant residual impact to black cockatoo foraging habitat from the proposed clearing of 1.4 hectares of native vegetation (Minister for Environment; Climate Action, 2023). An offset proposal will be required by the applicant in accordance with the *WA Environmental Offsets Policy* (2011) and *WA Environmental Offsets Guidelines* (2014), using the *WA Environment Offsets calculator*.

2.2. Relevant planning instruments and other matters

To give effect to a decision of the Minister under the *Environmental Protection Act 1986* (the EP Act), the Chief Executive Officer of DWER or their delegates may amend a clearing permit under sections 51K(1)(e) and 51K(1)(h) of the EP Act. Section 105(aa) of the EP Act states that amendments made under this section of the EP Act are not appealable. On this basis, the above mentioned amendments made by the Delegated Officer are not available for third party appeals.

Appendix A. Sources of information

A.1. References

Beach Energy (2023) Email response from Beach Energy to DMIRS – Draft amendment documents CPS 10080/2. Beach Energy Limited, October 2023.

Department of Environment Regulation (DER) (2014) *A guide to the assessment of applications to clear native vegetation*. Perth. Available from: https://www.der.wa.gov.au/images/documents/your-environment/native-vegetation/Guidelines/Guide2_assessment_native_veg.pdf

Minister for Environment; Climate Action (2023) Appeal Number 030 of 2023. Minister's Appeal Determination: Appeal Against the Grant of Clearing Permit CPS 10080/1, Beharra Springs Project, Shire of Irwin.

Office of the Appeals Convenor (2023) Report to the Minister for Environment – Appeal against decision to grant a clearing permit – Clearing Permit CPS 10080/1.

3. Glossary

Acronyms:

BC Act	<i>Biodiversity Conservation Act 2016</i> , Western Australia
BoM	Bureau of Meteorology, Australian Government
DAA	Department of Aboriginal Affairs, Western Australia (now DPLH)
DAFWA	Department of Agriculture and Food, Western Australia (now DPIRD)
DCCEEW	Department of Climate Change, Energy, the Environment and Water, Australian Government
DBCA	Department of Biodiversity, Conservation and Attractions, Western Australia
DER	Department of Environment Regulation, Western Australia (now DWER)
DMIRS	Department of Mines, Industry Regulation and Safety, Western Australia
DMP	Department of Mines and Petroleum, Western Australia (now DMIRS)
DoEE	Department of the Environment and Energy (now DCCEEW)
DoW	Department of Water, Western Australia (now DWER)
DPaW	Department of Parks and Wildlife, Western Australia (now DBCA)
DPIRD	Department of Primary Industries and Regional Development, Western Australia

DPLH	Department of Planning, Lands and Heritage, Western Australia
DRF	Declared Rare Flora (now known as Threatened Flora)
DWER	Department of Water and Environmental Regulation, Western Australia
EP Act	<i>Environmental Protection Act 1986</i> , Western Australia
EPA	Environmental Protection Authority, Western Australia
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Federal Act)
GIS	Geographical Information System
ha	Hectare (10,000 square metres)
IBRA	Interim Biogeographic Regionalisation for Australia
IUCN	International Union for the Conservation of Nature and Natural Resources – commonly known as the World Conservation Union
PEC	Priority Ecological Community, Western Australia
RIWI Act	<i>Rights in Water and Irrigation Act 1914</i> , Western Australia
TEC	Threatened Ecological Community

Definitions:

{DBCA (2019) Conservation Codes for Western Australian Flora and Fauna. Department of Biodiversity, Conservation and Attractions, Western Australia}:-

T Threatened species:

Listed by order of the Minister as Threatened in the category of critically endangered, endangered or vulnerable under section 19(1), or is a rediscovered species to be regarded as threatened species under section 26(2) of the *Biodiversity Conservation Act 2016* (BC Act).

Threatened fauna is that subset of ‘Specially Protected Fauna’ listed under schedules 1 to 3 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for Threatened Fauna.

Threatened flora is that subset of ‘Rare Flora’ listed under schedules 1 to 3 of the *Wildlife Conservation (Rare Flora) Notice 2018* for Threatened Flora.

The assessment of the conservation status of these species is based on their national extent and ranked according to their level of threat using IUCN Red List categories and criteria as detailed below.

CR Critically endangered species

Threatened species considered to be “*facing an extremely high risk of extinction in the wild in the immediate future, as determined in accordance with criteria set out in the ministerial guidelines*”.

Listed as critically endangered under section 19(1)(a) of the BC Act in accordance with the criteria set out in section 20 and the ministerial guidelines. Published under schedule 1 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for critically endangered fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for critically endangered flora.

EN Endangered species

Threatened species considered to be “*facing a very high risk of extinction in the wild in the near future, as determined in accordance with criteria set out in the ministerial guidelines*”.

Listed as endangered under section 19(1)(b) of the BC Act in accordance with the criteria set out in section 21 and the ministerial guidelines. Published under schedule 2 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for endangered fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for endangered flora.

VU Vulnerable species

Threatened species considered to be “*facing a high risk of extinction in the wild in the medium-term future, as determined in accordance with criteria set out in the ministerial guidelines*”.

Listed as vulnerable under section 19(1)(c) of the BC Act in accordance with the criteria set out in section 22 and the ministerial guidelines. Published under schedule 3 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for vulnerable fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for vulnerable flora.

Extinct Species:

EX Extinct species

Species where “*there is no reasonable doubt that the last member of the species has died*”, and listing is otherwise in accordance with the ministerial guidelines (section 24 of the BC Act).

Published as presumed extinct under schedule 4 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for extinct fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for extinct flora.

EW Extinct in the wild species

Species that “*is known only to survive in cultivation, in captivity or as a naturalised population well outside its past range; and it has not been recorded in its known habitat or expected habitat, at*

appropriate seasons, anywhere in its past range, despite surveys over a time frame appropriate to its life cycle and form", and listing is otherwise in accordance with the ministerial guidelines (section 25 of the BC Act).

Currently there are no threatened fauna or threatened flora species listed as extinct in the wild. If listing of a species as extinct in the wild occurs, then a schedule will be added to the applicable notice.

Specially protected species:

Listed by order of the Minister as specially protected under section 13(1) of the BC Act. Meeting one or more of the following categories: species of special conservation interest; migratory species; cetaceans; species subject to international agreement; or species otherwise in need of special protection.

Species that are listed as threatened species (critically endangered, endangered or vulnerable) or extinct species under the BC Act cannot also be listed as Specially Protected species.

MI Migratory species

Fauna that periodically or occasionally visit Australia or an external Territory or the exclusive economic zone; or the species is subject of an international agreement that relates to the protection of migratory species and that binds the Commonwealth; and listing is otherwise in accordance with the ministerial guidelines (section 15 of the BC Act).

Includes birds that are subject to an agreement between the government of Australia and the governments of Japan (JAMBA), China (CAMBA) and The Republic of Korea (ROKAMBA), and fauna subject to the *Convention on the Conservation of Migratory Species of Wild Animals* (Bonn Convention), an environmental treaty under the United Nations Environment Program. Migratory species listed under the BC Act are a subset of the migratory animals, that are known to visit Western Australia, protected under the international agreements or treaties, excluding species that are listed as Threatened species.

Published as migratory birds protected under an international agreement under schedule 5 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018*.

CD Species of special conservation interest (conservation dependent fauna)

Fauna of special conservation need being species dependent on ongoing conservation intervention to prevent it becoming eligible for listing as threatened, and listing is otherwise in accordance with the ministerial guidelines (section 14 of the BC Act).

Published as conservation dependent fauna under schedule 6 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018*.

OS Other specially protected species

Fauna otherwise in need of special protection to ensure their conservation, and listing is otherwise in accordance with the ministerial guidelines (section 18 of the BC Act).

Published as other specially protected fauna under schedule 7 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018*.

P Priority species:

Possibly threatened species that do not meet survey criteria, or are otherwise data deficient, are added to the Priority Fauna or Priority Flora Lists under Priorities 1, 2 or 3. These three categories are ranked in order of priority for survey and evaluation of conservation status so that consideration can be given to their declaration as threatened fauna or flora.

Species that are adequately known, are rare but not threatened, or meet criteria for near threatened, or that have been recently removed from the threatened species or other specially protected fauna lists for other than taxonomic reasons, are placed in Priority 4. These species require regular monitoring.

Assessment of Priority codes is based on the Western Australian distribution of the species, unless the distribution in WA is part of a contiguous population extending into adjacent States, as defined by the known spread of locations.

P1 Priority One - Poorly-known species

Species that are known from one or a few locations (generally five or less) which are potentially at risk. All occurrences are either: very small; or on lands not managed for conservation, e.g. agricultural or pastoral lands, urban areas, road and rail reserves, gravel reserves and active mineral leases; or otherwise under threat of habitat destruction or degradation. Species may be included if they are comparatively well known from one or more locations but do not meet adequacy of survey requirements and appear to be under immediate threat from known threatening processes. Such species are in urgent need of further survey.

P2 Priority Two - Poorly-known species

Species that are known from one or a few locations (generally five or less), some of which are on lands managed primarily for nature conservation, e.g. national parks, conservation parks, nature reserves and other lands with secure tenure being managed for conservation. Species may be included if they are comparatively well known from one or more locations but do not meet adequacy of survey requirements and appear to be under threat from known threatening processes. Such species are in urgent need of further survey.

P3 Priority Three - Poorly-known species

Species that are known from several locations, and the species does not appear to be under imminent threat, or from few but widespread locations with either large population size or significant remaining areas of apparently suitable habitat, much of it not under imminent threat. Species may be included if they are comparatively well known from several locations but do not meet adequacy of survey requirements and known threatening processes exist that could affect them. Such species are in need of further survey.

P4 Priority Four - Rare, Near Threatened and other species in need of monitoring

(a) Rare. Species that are considered to have been adequately surveyed, or for which sufficient knowledge is available, and that are considered not currently threatened or in need of special protection but could be if present circumstances change. These species are usually represented on conservation lands.

(b) Near Threatened. Species that are considered to have been adequately surveyed and that are close to qualifying for vulnerable but are not listed as Conservation Dependent.

(c) Species that have been removed from the list of threatened species during the past five years for reasons other than taxonomy.

Principles for clearing native vegetation:

- (a) Native vegetation should not be cleared if it comprises a high level of biological diversity.
- (b) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna.
- (c) Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, threatened flora.
- (d) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of a threatened ecological community.
- (e) Native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared.
- (f) Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.
- (g) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation.
- (h) Native vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area.
- (i) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water.
- (j) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.