Government of Western Australia
Department of Mines, Industry Regulation and Safety

Clearing Permit Decision Report

1. Application details

1.1. Permit application details

Permit application No.:	1997/5
Permit type:	Purpose Permit

1.2. Proponent details

Proponent's name:	**Western Areas Limited**

1.3. Property details

Property:	Mining Lease 74/57 Mining Lease 74/58 Mining Lease 74/90
Local Government Area:	Shire of Kondinin
Colloquial name:	Forrestania Nickel Project

1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	For the purpose of:
70		Mechanical Removal	Mineral Production

1.5. Decision on application

Decision on Permit Application:	Grant
Decision Date:	17 May 2021

2. Site Information

2.1. Existing environment and information

2.1.1. Description of the native vegetation under application

Vegetation Description

Beard vegetation associations have been broadly mapped for the whole of Western Australia, and are useful to look at vegetation extent in a regional context. The following four Beard vegetation associations have been mapped within the application area (GIS Database):

128: Bare areas; rock outcrops;
519: Shrublands; mallee scrub, *Eucalyptus eremophila*;
936: Medium woodland; salmon gum; and
1413: Shrublands; Acacia, Casuarina and Melaleuca thicket.

The application area was surveyed in November 2006 by Botanica Consulting. The following vegetation communities were described by Botanica Consulting (2006):

Transitional Eucalyptus woodland: Upper-storey of *Eucalyptus flocktoniae* ssp. *flocktoniae* and *E. urna* with some *E. salmonophloia*, mid-storey of many *Melaleuca* sp., *daviesia nematophylla*, *Senna artemisioides* ssp. *filifolia*, *Halgania andromedifolia* and *Dodonaea bursariifolia*, with an under-storey of *Olearia muelleri*, *Wilsonia humilis*, *Atriplex stipitata*, *Astroloma serratifolium*, *Acacia intricata*, *A. deficiens* and *Microcybe albiflora*.

Eucalyptus mallee woodland: Upper-storey of *Eucalyptus eremophila* subsp. *eremophila*, *E. calycogona* and *E. cylindrocarpa*, with mid-storey of *Eremophila drummondii, Melaleuca adnata*, *M. elliptica, M. hamata, Daviesia bethamii* subsp. *acanthoclada* and *Hakea multilineata*, with understorey of *Coopernookia strophiolata*, *Westringia cephalantha*, *Acacia sphacelata* subsp. *sphacelata* and *A. intrica*.

Banded Ironstone Formation: Upper-storey of *Eucalyptus eremophila* subsp. *eremophila*, *E. flocktoniae* subsp. *flocktoniae* and *E. urna*, with mid-storey of *Goodenia pinifolia, Calothamnus quadrifidus, Melaleuca cordata*, *M. adnata, M. hamata, M. cardiophylla, Daviesia nematophylla, Grevillea lullfitzii, G. insignis* subsp. *elliotii*, *Hakea multilineata* and *Petrophile divaricata,* with an under-storey of *Olearia muelleri, Lepidosperma brunonianum*, *Hibbertia pungens, Astroloma serratifolium* and *Westringia cephalantha*.

***Eucalyptus eremophila* woodland:** Upper-storey of *Eucalyptus eremophila* subsp. *eremophila*, *E. phenax, E. pileata*, with a mid-storey of *Melaleuca adnata, M. hamata, M. uncinata* and *Thryptomene kochii*, with an understorey of *Olearia muelleri, Lepidosperma brunonianum, Westringia cephalantha, Acacia sphacelata* subsp. *sphacelata* and *Boronia inornata*.

***Eucalyptus salubris* woodland:** Upper-storey of *Eucalyptus salubris*, *E. calycogona*, *E. yilgarnensis*, with a midstorey of *Melaleuca acuminata*, *M. cardiophylla*, *M. pauperiflora* subsp. *pauperiflora*, *Exocarpus aphyllus* and *Santalum acuminatum*, with an under-storey of *Olearia muelleri, Astroloma serritifolium, Acacia deficiens*, *A. erinacea, A. intrica* and *A. sphacelata* subsp. *sphacelata* and a moss, *Barbula calycina*.

Rehabilitated areas: Species present include *Angianthus tomentosus, Olearia muelleri, Eucalyptus flocktoniae* ssp. *flocktoniae*, *E. salubris, E. annulata, E. salmonophloia, Acacia deficiens, A. erinacea, A. hemiteles*, *Melaleuca adnata, Daviesia nematophylla, Dodonaea bursariiflora* and *D. viscosa*.

Clearing Description

Forrestania Nickel project.
Western Areas Limited proposes to clear up to 70 hectares of native vegetation within a boundary of approximately 369 hectares, for the purpose of mineral production. The project is located approximately 80 kilometres east of Hyden, in the Shire of Kondinin.

Vegetation Condition

Very Good: Vegetation structure altered; obvious signs of disturbance (Keighery, 1994);

To:

Excellent: Vegetation structure intact; disturbance affecting individual species, weeds non-aggressive (Keighery 1994).

Comment

The vegetation condition was assessed by botanists from Botanica Consulting (2006).

Clearing permit CPS 1997/1 was granted by the former Department of Industry and Resources (now the Department of Mines, Industry Regulation and Safety) on 8 November 2007 and was valid from 8 December 2007 to 8 December 2012. The permit authorised the clearing of up to 70 hectares of native vegetation within a boundary of approximately 369 hectares.

The Permit Holder subsequently applied to amend CPS 1997/1 to remove Condition 5 which prevented clearing in two areas within the permit boundary. The exclusion areas were based on mapped areas of banded ironstone formation, however subsequent survey work revealed that the areas did not represent BIF vegetation types. CPS 1997/2 was granted on 21 February 2008.

CPS 1997/3 was granted on 6 December 2012, extending the permit duration to 30 June 2017.

CPS 1997/4 was granted on 15 June 2017, which extended the permit duration to 30 June 2021, and updated the name of the permit holder from Western Areas NL to Western Areas Limited.

On 18 March 2021, the Permit Holder applied to amend CPS 1997/4 to extend the permit duration by five years to 30 June 2026.

3. Assessment of application against Clearing Principles

Comments

The permit holder has applied to extend the permit duration by five years from 30 June 2021 to 30 June 2026 as the project is ongoing and clearing has not been completed. The total area approved to clear and the permit boundary remain unchanged.

The amendment application has been assessed against the clearing principles, planning instruments and other matters in accordance with s.51O of the *Environmental Protection Act 1986*. Environmental information has been reviewed, and the assessment of the proposed clearing against the clearing principles remains consistent with the assessment contained in previous decision reports.

Methodology

GIS Database:
- DPaW Tenure
- Hydrography, Lakes
- Hydrography, Linear
- IBRA Australia
- Imagery
- Landsystem Rangelands
- Pre-European Vegetation
- Public Drinking Water Source Areas
- Soils, Statewide
- Threatened and Priority Ecological Communities boundaries
- Threatened and Priority Ecological Communities buffers
- Threatened and Priority Flora
- Threatened Fauna

Planning Instrument, Native Title, previous EPA decision or other matter.

Comments

There is one native title claim over the area under application (DPLH, 2021). This claim has been registered with the National Native Title Tribunal on behalf of the claimant group. However, the mining tenure has been granted in accordance with the future act regime of the *Native Title Act 1993* and the nature of the act (i.e. the proposed clearing activity) has been provided for in that process, therefore, the granting of a clearing permit is not a future act under the *Native Title Act 1993*.

There are no registered Aboriginal Sites of Significance within the application area (DPLH, 2021). It is the proponent's responsibility to comply with the *Aboriginal Heritage Act 1972* and ensure that no Aboriginal Sites of Significance are damaged through the clearing process.

It is the proponent's responsibility to liaise with the Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions, to determine whether a Works Approval, Water Licence, Bed and Banks Permit, or any other licences or approvals are required for the proposed works.

The amendment application was advertised on 29 March 2021 by the Department of Mines, Industry Regulation and Safety inviting submissions from the public. No submissions were received in relation to this application.

Methodology DPLH (2021)

4. References

Botanica Consulting (2006) Flora and Vegetation Survey of Digger Rocks and the RT Pipeline Corridor (M74/58, M74/90, M74/57 & L77/44). Report prepared for Western Areas NL by Botanica Consulting Pty Ltd, November 2006.

DPLH (2021) Aboriginal Heritage Inquiry System. Department of Planning, Lands and Heritage. https://espatial.dplh.wa.gov.au/AHIS/index.html?viewer=AHIS (Accessed 10 May 2021).

Keighery, B.J. (1994) Bushland Plant Survey: A Guide to Plant Community Survey for the Community. Wildflower Society of WA (Inc). Nedlands, Western Australia.

5. Glossary

Acronyms:

BC Act	*Biodiversity Conservation Act 2016,* 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)
DAWE	Department of Agriculture, Water and the Environment, 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 DAWE)
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	*Environmental Protection Act 1986*, Western Australia
EPA	Environmental Protection Authority, Western Australia
EPBC Act	*Environment Protection and Biodiversity Conservation Act 1999* (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	*Rights in Water and Irrigation Act 1914*, 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 indigenous to Western Australia.

(c) Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, rare 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 clearing the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.