



Clearing Permit Decision Report

1. Application details and outcome

1.1. Permit application details

Permit number:	CPS 2802/3
Permit type:	Purpose permit
Applicant name:	Mr Richard Firth Walker
Application received:	13 March 2020
Application area:	259.48 hectares (ha) of native vegetation
Purpose of clearing:	Grazing and pasture
Method of clearing:	Mechanical removal
Property:	Lot 1731 on Plan 123504, Wilga West
Location (LGA area/s):	Shire of Donnybrook
Localities (suburb/s):	Wilga West

1.2. Description of clearing activities

This amendment application is to amend permit conditions 1, 3(a) and 3(b) of Clearing Permit CPS 2802/2, to alter the purpose for which clearing may be done from thinning and grazing to grazing only, and to increase the area permitted to be cleared for the purpose of grazing from 22 hectares to 259.48 hectares. Accordingly, this amendment application also proposes to remove vegetation management conditions associated with thinning activities from the permit.

1.3. Decision on application and key considerations

Decision:	Refused
Decision date:	17 November 2020

1.4. Reasons for decision

This application to amend Clearing Permit CPS 2802/2 was made in accordance with section 51M of the *Environmental Protection Act 1986* (EP Act) and was received by the Department of Water and Environmental Regulation (DWER) on 13 March 2020. DWER advertised the application for public comment and one submission was received.

In undertaking this assessment, and in accordance with section 51O of the EP Act, the Delegated Officer has considered the Clearing Principles in Schedule 5 of the EP Act (see Appendix C), relevant planning instruments, and other matters deemed relevant to the assessment (see Section 3.3). Consideration of matters raised in the public submission is summarised in Appendix A.

In considering the application, the Delegated Officer had regard to the submission received and the interests of this third party. The Delegated Officer noted that, where a third party appeal is submitted against the amendment of a clearing permit, the clearing permit continues to have effect, meaning that clearing may be lawfully undertaken while the clearing permit is under appeal.

The Delegated Officer also considered the nature of the requested amendments and determined that the proposed amendments may pose a risk to environmental values that is substantially different and additional to those authorised through the existing clearing permit (CPS 2802/2).

The Delegated Officer considered that the proposed amendment of CPS 2802/2 would be better suited to a new clearing permit application under section 51E(1) of the EP Act as this would preserve third party appeal rights. Noting

the nature of the proposed amendments and the implications for the appeal rights of third parties, the Delegated Officer has determined to refused to amend Clearing Permit CPS 2802/2.

1.5. Site map

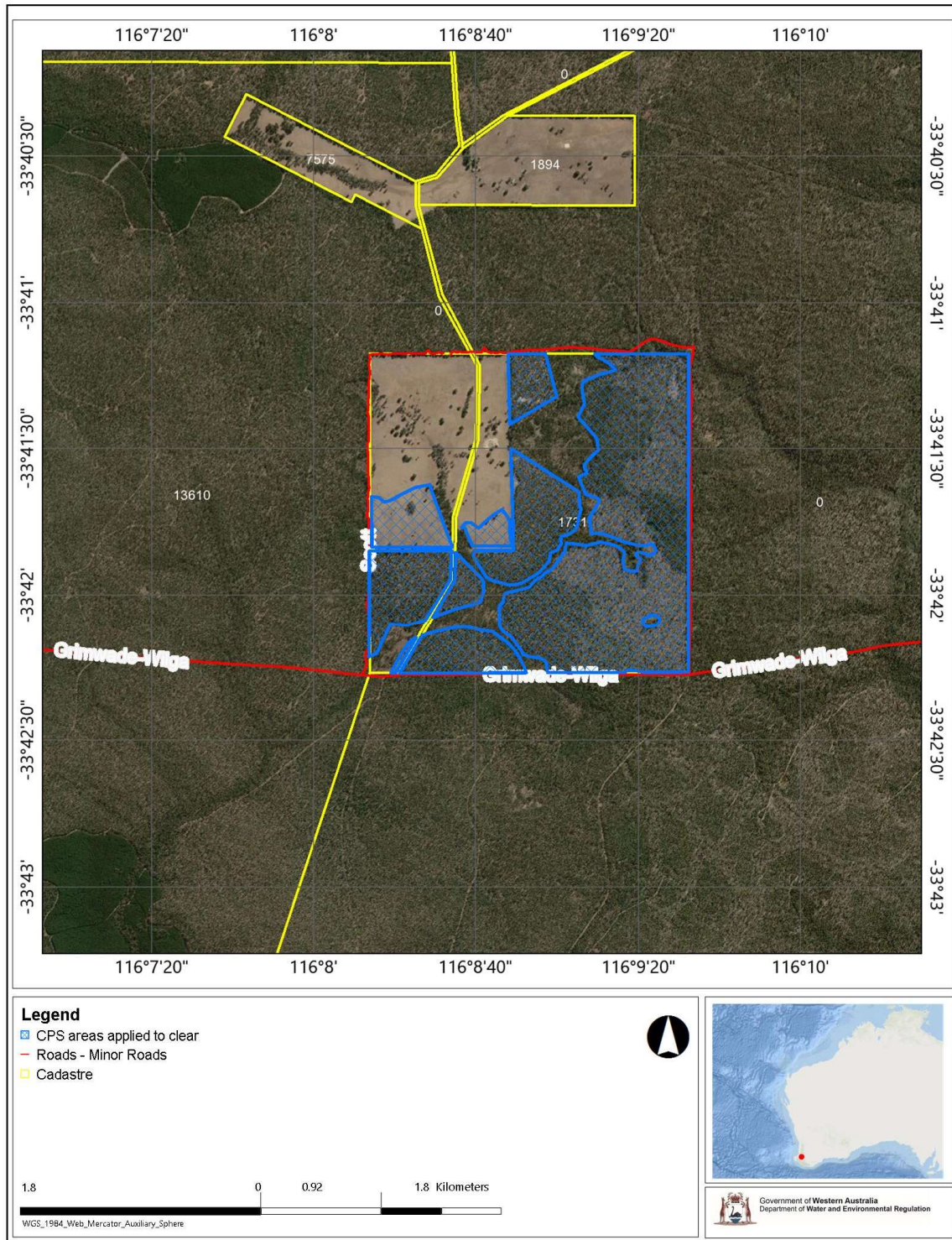


Figure 1. Map of the application area. Areas cross-hatched blue indicates the areas proposed to be cleared.

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 51O of the EP Act (see Section 1.3), the Delegated Officer has also had regard to the objects and principles under section 4A of the EP Act, particularly:

1. the precautionary principle;
2. the principle of intergenerational equity; and
3. 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)
- *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC 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* (December 2013)
- *Procedure: Native vegetation clearing permits* (DWER, October 2019)

3. Detailed assessment of application

3.1. Avoidance and mitigation measures

No evidence of avoidance or mitigation measures was provided to support the application.

The applicant indicated that extensive work had been undertaken to improve the productive capacity and quality of the forest since 2011, through thinning and silvicultural activities (Walker, 2020). The applicant advised that thinning and silvicultural activities alone had not provided an economic return sufficient to cover the costs of ongoing forest management (Walker, 2020).

3.2. Assessment of environmental impacts

In assessing the application in accordance with section 51O of the EP Act, the Delegated Officer has examined the application and site characteristics (Appendix B) and considered whether the clearing poses a risk to environmental values. An assessment against the Clearing Principles is contained in Appendix C.

This assessment identified that the clearing may pose a risk to environmental values including significant habitat for fauna, and local conservation areas including adjacent Wilga State Forest. The Delegated Officer also considered advice from the Commissioner of Soil and Land Conservation that the proposed clearing is likely to have an appreciable impact on land degradation and may increase the incidence and intensity of waterlogging and flooding (CSLC, 2020).

As discussed in section 3.3 below, the Delegated Officer considered that the proposed amendment of CPS 2802/2 would be better suited to a new clearing permit application under section 51E(1) of the EP Act. Therefore, a detailed assessment of the proposed clearing against the clearing principles has not been undertaken.

3.3. Relevant planning instruments and other matters

The clearing permit application was advertised on the Department of Water and Environmental Regulation's website on 3 April 2020, inviting submissions from the public within a 21-day period. One submission was received in relation to this application (see Appendix A).

In determining whether to grant the amendment application, the Delegated Officer has had regard to the submission received and the interests of this third party (see Appendix A). The Delegated Officer noted that, where a third party appeal is submitted against the amendment of a clearing permit, the clearing permit continues to have effect, meaning that clearing may be lawfully undertaken while the clearing permit is under appeal.

Noting the significant modifications proposed by the amendment application, the interests of the third party and the implications for third party appeal rights, the Delegated Officer considers that the proposed amendment of CPS 2802/2 would be better suited to a new clearing permit application under section 51E(1) of the EP Act. The applicant was given an opportunity to withdraw this application and re-submit it as a new clearing permit application (DWER, 2020), however a request to withdraw the application has not been received to-date.

Appendix A – Details of public submissions

Summary of comments	Consideration of comment
<p>A public submission regarding the impact of the proposed clearing on black cockatoo species was received that raised the following issues:</p> <ul style="list-style-type: none"> • The assessment of this amendment application will require a full environmental assessment of the impacts of the clearing; • The assessment of previous versions of the permit (CPS 2802/1 and 2802/2) did not refer to impacts to black cockatoo species and may not have adequately or appropriately assessed environmental impacts; • The application is likely to impact Matters of National Environmental Significance listed under the EPBC Act, and the application should be referred as per the EPBC Act referral guidelines; • Economic concerns are not appropriate evidence to demonstrate avoidance and mitigation options have been pursued; • A comprehensive black cockatoo assessment is required to determine impacts to potential foraging and breeding habitat present within the proposed clearing area; and • The proposed clearing is likely to result in the loss of significant foraging and breeding habitat for black cockatoo species, given the size of the application area and the cumulative impacts of habitat loss. 	<p>The comments made in this submission are addressed as follows:</p> <ul style="list-style-type: none"> • DWER acknowledges that the assessment of the proposed clearing against the Clearing Principles and impacts to environmental values, including significant habitat for fauna, is likely to have changed since earlier assessments relating to the original and amended versions of this clearing permit (see Section 3.2). • The applicant has been advised that they may have notification responsibilities under the EPBC Act. • The summary of efforts taken to avoid and minimise the need for clearing were considered in the assessment of the application (see Section 3.1). • The Delegated Officer has determined to refuse to amend the clearing permit and therefore does not consider that black cockatoo assessments are necessary at this time.

Appendix B – Site characteristics

The information provided below describes the key characteristics of the area proposed to be cleared and is based on the best information available to DWER at the time of this assessment. This information was used to inform the assessment of the clearing against the Clearing Principles, contained in Appendix C.

1. Site characteristics

Site characteristic	Details
Local context	The proposed clearing area includes several patches of vegetation totalling 259.48 hectares, separated by a linear stretch of approximately 42 hectares of unharvested riparian vegetation and previously cleared paddock. The proposed clearing area is adjacent to Wilga State Forest and is included in a mapped South West Region Ecological Linkage (Molloy et al., 2009). Spatial data indicates the local area (10 kilometre radius of the proposed clearing area) retains approximately 77.71 per cent of the original native vegetation cover.
Vegetation description	<p>The previous assessment outlined in the Decision Report prepared for Clearing Permits CPS 2802/1 and CPS 2802/2, and recent photographs supplied by the applicant indicate that the vegetation within the proposed clearing area consists of a canopy of jarrah (<i>Eucalyptus marginata</i>), blackbutt (<i>Eucalyptus patens</i>) and marri (<i>Corymbia calophylla</i>) over mid to dense understorey.</p> <p>This is consistent with the mapped South West Region vegetation types:</p> <ul style="list-style-type: none"> • Catterick complex, described as open forest of <i>Eucalyptus marginata</i> subsp. <i>marginata</i>-<i>Corymbia calophylla</i> mixed with <i>Eucalyptus patens</i> on slopes, <i>Eucalyptus rudis</i> and <i>Banksia littoralis</i> on valley floors in the humid zones; • Dwellingup complex, described as open forest of <i>Eucalyptus marginata</i> subsp. <i>marginata</i>-<i>Corymbia calophylla</i> on lateritic uplands in mainly humid and subhumid zones; and • Wilga complex, described as woodland of <i>Eucalyptus marginata</i> subsp. <i>marginata</i>-<i>Corymbia calophylla</i> on sandy-gravels on low divides in the subhumid zones (Mattiske and Havel, 1998).
Vegetation condition	<p>The previous assessment outlined in the Decision Report prepared for Clearing Permits CPS 2802/1 and CPS 2802/2, and recent photographs supplied by the applicant indicate the vegetation within the proposed clearing area is in Very Good to Excellent (Keighery, 1994) condition, described as:</p> <ul style="list-style-type: none"> • Very Good: Vegetation structure altered, with obvious signs of disturbance. For example, disturbance to vegetation structure caused by repeated fires, the presence of some more aggressive weeds, dieback, logging and/or grazing; and • Excellent: Vegetation structure intact, with disturbance affecting individual species; weeds are non-aggressive species (Keighery, 1994). <p>The full Keighery condition rating scale is provided in Appendix D, below.</p>
Soil description	<p>The application area is mapped within the following soil types:</p> <ul style="list-style-type: none"> • Wilga wet flats Phase (255DPWGw), described as poorly drained flats and depressions with some sandy and gravelly rises. Soils are non-saline wet soils and sands with some gravels, comprising approximately 47% of the application area; • Wilga Subsystem (255DpWG), described as broad gently undulating (1-5%) plains and low rises (2-15m) with swampy depressions. Lateritic terrain over Eocene sediments. Soils are sandy and loamy gravels, with some deep sands, semi-wet soils and wet soils, comprising approximately 24% of the application area; • Yarragil upstream valleys Phase (255DpYGu), described as relief 5-20 m, slopes 3-10%. Valley floor is broader than downstream phase. Soil parent

Site characteristic	Details
	<p>material is mainly laterite. Soils are gravels and sands, comprising approximately 18% of the application area;</p> <ul style="list-style-type: none"> • Dwellingup ironstone gravel divides Phase (255DpDWi), described as the soil parent material is laterite, soils are gravels with some sands, comprising approximately 9% of the application area; and • Pindalup upsteam valleys Phase (255DpPNu), described as shallow minor valleys (10-20 m) with gentle sideslopes (3-10%), and swampy floors (50-75 m wide). Soils are loamy gravels, and deep sands, and non-saline wet soils on the valley floors, comprising approximately 3% of the application area (DPIRD, 2017).
Land degradation risk	<p>Advice received from the Commissioner of Soil and Land Conservation (CSLC) identified that surveyed soils and landforms present within the application area are susceptible to water erosion, waterlogging, eutrophication and salinity (CSLC, 2020).</p> <p>The CSLC identified that the risk of eutrophication and waterlogging within the proposed clearing area has been assessed as high, while localised flooding is considered a low to moderate risk (CSLC, 2020). The risk of water erosion varies across the clearing area from low to high risk, however there is a high risk of water erosion on the steeper slopes and valley floors (CSLC, 2020). The CSLC also identified that there may be an increased salinity risk, if the proposed clearing is undertaken (CLSC, 2020).</p>
Waterbodies	<p>The desktop assessment and aerial imagery indicated that a non-perennial tributary of Blackwood River occurs adjacent to the application area within the linear stretch of approximately 42 hectares of unharvested vegetation that will be retained. According to available hydrography data, a section of this non-perennial tributary intersects the north-eastern extent of the application area.</p> <p>The application area is not mapped within any known wetland systems or within any proclaimed surface or groundwater areas.</p>
Conservation areas	<p>The application area is directly adjacent to Wilga State Forest, which surrounds the entirety of Lot 1731 on Plan 123504, Wilga West. Aerial imagery indicates that sections of the application area are separated from this conservation area by previously cleared access tracks.</p>
Climate and landform	<p>The application area is located within a high rainfall area, with an average annual rainfall of 900 millimetres, average annual evapotranspiration rate of 700 millimetres, and average monthly maximum temperatures ranging from 18.3°C to 33.7°C.</p> <p>According to available databases and advice received from the Commissioner of Soil and Land Conservation (CSLC), the application area is located on upper and mid-slope positions in the landscape and the majority of the application area consists of swampy or valley landscapes (CSLC, 2020).</p>

2. Flora, fauna and ecosystem analysis

A review of available databases determined that no threatened flora or threatened ecological communities (TECs) have been recorded in the local area (Western Australian Herbarium, 1998-). However, one Priority 2 (P2) flora species and one priority ecological community (PEC) have been recorded within a 10 kilometre radius (Western Australian Herbarium, 1998-). No existing records occur within the proposed clearing area. Noting the site characteristics above, including dominant species, soil type and vegetation composition, and proximity to existing records, the aforementioned conservation significant flora species and ecological communities are not considered likely to be impacted by the clearing (see Appendix C).

A total of 12 threatened or priority fauna species have been recorded within the local area, including eight threatened species, three priority species and one other specially protected fauna species (DBCA, 2007-). None of these records occur within the application area. With consideration for the site characteristics set out above, the following conservation fauna species may be impacted by the proposed clearing.

Species	Distance of closest record to application area (kilometres)	Suitable habitat features (fauna)	Are surveys adequate to identify? (Y, N, N/A)
Woylie (<i>Bettongia penicillate ogilbyi</i>)	3.74	Y	N – no surveys undertaken
Forest red-tailed black cockatoo (<i>Calyptorhynchus banksii naso</i>)	4.41	Y	N – no surveys undertaken
Baudin's cockatoo (<i>Calyptorhynchus baudinii</i>)	6.47	Y	N – no surveys undertaken
Carnaby's cockatoo (<i>Calyptorhynchus latirostris</i>)	5.23	Y	N – no surveys undertaken
Chuditch (<i>Dasyurus geoffroii</i>)	4.82	Y	N – no surveys undertaken
Quenda (<i>Isoodon fusciventer</i>)	8.99	Y	N – no surveys undertaken
Western brush wallaby (<i>Notamacropus irma</i>)	8.01	Y	N – no surveys undertaken
South-western brush-tailed phascogale (<i>Phascogale tapoatafa wambenger</i>)	4.99	Y	N – no surveys undertaken

3. Vegetation extent

	Pre-European extent (ha)	Current extent (ha)	% remaining	Current extent in all DBCA managed land (ha)	% current extent in all DBCA managed land (proportion of pre-European extent)
IBRA bioregion					
Jarrah Forest	4,506,660.25	2,399,838.15	53.25	1,673,614.25	39.43
South West vegetation complexes					
Catterick complex	40,439.15	25,950.26	64.17	23,485.76	58.08
Dwellingup complex	436,420.50	374,821.98	85.89	328,023.81	75.16
Walga complex	38,161.73	25,542.24	66.93	18,324.48	48.02
Local area					
10 kilometre radius	31,978.46	24,849.33	77.71	-	-

Appendix C – Assessment against the Clearing Principles

Assessment against the Clearing Principles	Variance level	Is further consideration required?
Environmental value: biological values		
<p><u>Principle (a):</u> <i>“Native vegetation should not be cleared if it comprises a high level of biodiversity.”</i></p> <p><u>Assessment:</u> The proposed clearing area comprises a diverse range mid- and understorey species in Very Good to Excellent (Keighery, 1994) condition, occurs within a mapped ecological linkage and may include habitat for regionally significant fauna species.</p>	May be at variance	Yes Refer to Section 3.2 above.
<p><u>Principle (b):</u> <i>“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.”</i></p> <p><u>Assessment:</u> The proposed clearing area may contain significant foraging, roosting, and/or breeding habitat for eight conservation significant fauna (see Appendix B).</p>	May be at variance	Yes Refer to Section 3.2 above.
<p><u>Principle (c):</u> <i>“Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, threatened flora.”</i></p> <p><u>Assessment:</u> According to available databases, no threatened flora species have been recorded in the local area. The proposed clearing area is unlikely to contain suitable habitat for flora species listed under the <i>Biodiversity Conservation Act 2018</i>.</p>	Not likely to be at variance	No
<p><u>Principle (d):</u> <i>“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.”</i></p> <p><u>Assessment:</u> According to available databases, no state-listed threatened ecological communities (TECs) have been recorded in the local area. The proposed clearing area is unlikely to comprise vegetation consistent with, or necessary for the maintenance of, any state-listed TEC.</p>	Not likely to be at variance	No
Environmental values: significant remnant vegetation and conservation areas		
<p><u>Principle (e):</u> <i>“Native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared.”</i></p> <p><u>Assessment:</u> The extent of the mapped vegetation types and native vegetation in the local area is consistent with the national objectives and targets for biodiversity conservation in Australia.</p>	Not likely to be at variance	No
<p><u>Principle (h):</u> <i>“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></p> <p><u>Assessment:</u> Given the application area is adjacent to Wilga State Forest, the proposed clearing may have an impact on the environmental values of a local conservation area.</p>	May be at variance	Yes Refer to Section 3.2 above.

Assessment against the Clearing Principles	Variance level	Is further consideration required?
Environmental values: land and water resources		
<p><u>Principle (f):</u> "Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland."</p> <p><u>Assessment:</u> Given a watercourse is recorded adjacent to the proposed clearing area, the vegetation is considered to be growing in, or in association with, an environment associated with a watercourse or wetland.</p>	Is at variance	Yes Refer to Section 3.2 above.
<p><u>Principle (g):</u> "Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation."</p> <p><u>Assessment:</u> Advice received from the Commissioner of Soil and Land Conservation identified that the surveyed soils are susceptible to water erosion, waterlogging, eutrophication and salinity, and that the proposed clearing is likely to have an appreciable impact on land degradation.</p>	Is at variance	Yes Refer to Section 3.2 above.
<p><u>Principle (i):</u> "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."</p> <p><u>Assessment:</u> Given a watercourse is recorded adjacent to the proposed clearing area, the clearing may impact surface or ground water quality.</p>	May be at variance	Yes Refer to Section 3.2 above.
<p><u>Principle (j):</u> "Native vegetation should not be cleared if the clearing of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding."</p> <p><u>Assessment:</u> Advice received from the Commissioner of Soil and Land Conservation identified that surveyed soils and landforms present within the application area may contribute to waterlogging and contribute to increased incidence or intensity of flooding.</p>	May be at variance	Yes Refer to Section 3.2 above.

Appendix D – 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.

Measuring Vegetation Condition for the South West and Interzone Botanical Province (Keighery, 1994)

Condition	Description
Pristine	Pristine or nearly so, no obvious signs of disturbance.
Excellent	Vegetation structure intact, with disturbance affecting individual species; weeds are non-aggressive species.
Very Good	Vegetation structure altered, with obvious signs of disturbance. For example, disturbance to vegetation structure caused by repeated fires, the presence of some more aggressive weeds, dieback, logging and/or grazing.
Good	Vegetation structure significantly altered by very obvious signs of multiple disturbances. Retains basic vegetation structure or ability to regenerate it. For example, disturbance to vegetation structure caused by very frequent fires, the presence of some very aggressive weeds at high density, partial clearing, dieback and/or grazing.
Degraded	Basic vegetation structure severely impacted by disturbance. Scope for regeneration but not to a state approaching good condition without intensive management. For example,

	disturbance to vegetation structure caused by very frequent fires, the presence of very aggressive weeds, partial clearing, dieback and/or grazing.
Completely Degraded	The structure of the vegetation is no longer intact and the area is completely or almost completely without native species. These areas are often described as 'parkland cleared' with the flora comprising weed or crop species with isolated native trees or shrubs.

Appendix E – References and databases

1. GIS datasets

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

- Aboriginal Heritage Places (DPLH-001)
- Bush Forever Areas 2000 (DPLH-019)
- Cadastre Address (LGATE-002)
- CAWSA Part 2A Clearing Control Catchments (DWER-004)
- Consanguineous Wetlands Suites (DBCA-020)
- Contours (DPIRD-073)
- DBCA – Lands of Interest (DBCA-012)
- DBCA Legislated Lands and Waters (DBCA-011)
- DBCA Statewide Vegetation Statistics
- 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 Linear (Hierarchy) (DWER-031)
- IBRA Vegetation Statistics
- Local Planning Scheme – Zones and Reserves (DPLH-071)
- Native Vegetation Extent (DPIRD-005)
- Pre-European Vegetation (DPIRD-006)
- Public Drinking Water Source Areas (DWER-033)
- Regional Parks (DBCA-026)
- RIWI Act, Groundwater Areas (DWER-034)
- RIWI Act, Rivers (DWER-036)
- RIWI Act, Surface Water Areas and Irrigation Districts (DWER-037)
- Soil and Landscape Mapping – Best Available
- Soil Landscape Land Quality datasets
- Vegetation Complexes – South West forest region of Western Australia (DBCA-047)

Restricted GIS Databases used:

- ICMS (Incident Complaints Management System)– Points and Polygons
- Threatened Flora (TPFL)
- Threatened Flora (WAHerb)
- Threatened Fauna
- Threatened Ecological Communities and Priority Ecological Communities
- Threatened Ecological Communities and Priority Ecological Communities (Buffers)

2. References

Commissioner of Soil and Land Conservation (CSLC) (2020) Land Degradation Advice and Assessment Report for clearing permit application CPS 2802/3, received 13 May 2020. Department of Primary Industries and Regional Development. DWER Ref: A1893450.

Department of Primary Industries and Regional Development (DPIRD) (2017) NRInfo Digital Mapping. Accessed at <https://maps.agric.wa.gov.au/nrm-info/>. Accessed September 2018. Department of Primary Industries and Regional Development. Government of Western Australia.

Department of Water and Environmental Regulation (DWER) (2020) Written notification of intent to refuse application and opportunity to withdraw. DWER Ref: A1945816.

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

Mattiske, E.M. and Havel, J.J. (1998) Vegetation Complexes of the South-west Forest Region of Western Australia. Maps and report prepared as part of the Regional Forest Agreement, Western Australia for the Department of Conservation and Land Management and Environment Australia.

Molloy, S., Wood, J., Hall, S., Wallrodt, S. and Whisson, G. (2009) South West Regional Ecological Linkages Technical Report, Western Australian Local Government Association and Department of Environment and Conservation, Perth.

Walker, R. F. (2020) Application form and supporting documents for the application for an amendment to Clearing Permit CPS 2802/2. DWER Ref: A1896095.