



Clearing Permit Decision Report

1. Application details

1.1. Permit application details

Permit application No.: 3328/3
Permit type: Purpose Permit

1.2. Proponent details

Proponent's name: Justin and Glenn Rule

1.3. Property details

Property: Mining Lease 70/57
Local Government Area: Shire of Gingin
Colloquial name:

1.4. Application

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

1.5. Decision on application

Decision on Permit Application: Grant
Decision Date: 10 January 2013

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 mapped for the whole of Western Australia. One Beard Vegetation Association is located within the application areas (Government of Western Australia, 2011; GIS Database):

Beard Vegetation Association 1007: Mosaic: shrublands; *Acacia rostellifera*, *A. cyclops* and *Melaleuca cardiophylla* thicket / shrublands; *Acacia lasiocarpa* and *Melaleuca acerosa* heath.

A flora and vegetation assessment for an area that lies close to the application area was conducted by Ecologia in June 2009. The survey identified the following three vegetation units within the survey area (Ecologia, 2009):

1. *Acacia rostellifera* tall shrubland, over *Olearia axillaris* open tall shrubland, over *Spyridium globulosum* sparse mid shrubland over mid to low shrubland of *Myrtaceous* spp;
2. *Allocasuarina lehmanniana* subsp. *lehmanniana* tall shrubland, over *Olearia axillaris* open mid shrubland, over *Calothamnus quadrifidus*, *Conostephium pendulum* and *Melaleuca systema* sparse low to mid shrubland; and,
3. *Thomasia triphylla* open tall shrubland, over *Santalum acuminatum* open mid to tall shrubland, over *Lysinema ciliatum*, *Rhagodia baccata* subsp. *baccata* and *Myoporum insulare* sparse mid shrubland.

The flora and vegetation survey did not include the application areas; however, it was conducted in an area that lies adjacent to the application areas. The vegetation units identified during the flora and vegetation survey were present within one of the areas applied to clear, however, there were also other, undescribed vegetation units within the application areas, which was confirmed by a site visit that was conducted on 9 October 2009 by DMP staff.

Clearing Description J and G Rule (Rule) propose to clear up to 11.49 hectares of native vegetation.

The purpose of the proposed clearing is for the extraction of agricultural limesand (J and G Rule, 2009). Rule propose to clear the vegetation in stages and state that only 2 hectares of land will be exposed at one time (J and G Rule, 2009). Vegetation and topsoil will be stockpiled for rehabilitation purposes (J and G Rule, 2009).

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

Comment The vegetation condition rating is derived from information provided by Ecologia (2009).

The grant of Clearing Permit 3328/1 was advertised by Department of Mines and Petroleum (DMP) on 25 January 2010 and was subject to a 28 day appeals period which closed midnight 18 February 2010. Two appeals were received in relation to CPS 3328/1.

The Department of Mines and Petroleum received advice from the Minister for Environment dated 19 July 2010. The Minister for Environment dismissed the appeals, upholding the grant of Clearing Permit CPS 3328/1, but with the addition of a condition to mitigate wind erosion and a revision of the permit boundary to ensure a 100 metre setback from the Horizontal Setback Datum, consistent with Statement of Planning Policy 2.6 State Coastal Planning Policy 2006. The incorporation of these conditions necessitated an amendment to Clearing Permit CPS 3328/1, which was granted on 16 September 2010.

Rule applied to the DMP on 7 November 2012 to amend CPS 3328/2 to increase the amount proposed to be cleared and clearing boundary.

3. Assessment of application against clearing principles

Comments

Justin and Glenn Rule (Rule) have applied to increase the amount of clearing authorised and permit boundary from 4.6 hectares to 11.49 hectares. The additional 6.89 hectares of proposed clearing is for the continuation of limesand extraction.

The application area has broadly been mapped as Beard Association 1007: Mosaic: Shrublands; *Acacia lasiocarpa* & *Melaleuca acerosa* heath / Shrublands; *Acacia rostellifera* & *Acacia cyclops* thicket (GIS Database). This vegetation association is well represented in the region, with approximately 71% of its pre-European extent remaining (Government of Western Australia, 2011). According to available datasets, there are no known records of Threatened or Priority Flora, or Threatened or Priority Ecological Communities within the application area. A flora survey has not been undertaken over the application area; however a flora and vegetation assessment was undertaken in an area in close proximity to the application area by Ecologia in June 2009. The assessment identified four Priority flora species that could potentially occur within the survey area:

- *Thryptomene* sp. Lancelin (Priority 2);
- *Platysace ramosissima* (Priority 3);
- *Baeckea* sp. Perth Region (Priority 3); and
- *Conostylis pauciflora* subsp. *euryhipis* (Priority 4).

Ecologia (2009) report that none of these flora species were recorded during the flora and vegetation survey, however there are areas of the extended permit boundary that have not been surveyed. Ecologia (2009) report that the habitats for priority flora species are well represented in the area. Therefore the proposed clearing of an additional 6.89 hectares of native vegetation is unlikely to have a significant impact on the habitat of any conservation significant flora.

Ecologia (2009) report that no weed species have been identified within the survey area, however weed species were noted within the unsurveyed application areas by DMP staff who have visited the site previously. Care must be taken to ensure the proposed clearing activities do not spread or introduce weed species to non-infested areas. Potential impacts to biodiversity as a result of the proposed clearing may be minimised by the implementation of a weed management condition.

Therefore the proposed clearing is not likely to be at variance with Principles (a), (c), (d) and (e).

The assessment of Principle (b) is consistent with the assessment in the decision report for CPS 3328/2. Therefore the proposed clearing is not likely to be at variance to be Principle (b).

According to available datasets there are no watercourses or wetlands within the proposed amended clearing areas (GIS Database). Therefore the proposed clearing is not at variance to Principle (f).

The assessment of Principle (g) is consistent with the assessment in the decision report for CPS 3328/2. Therefore the proposed clearing is at variance to this principle. The application areas are located within the Quindalup soil-landscape (Ecologia, 2009). Bolland (2009) reports that the Quindalup dunes, when cleared of vegetation, are very easily eroded by winds. The previous permit (CPS 3328/2) contained a number of conditions in relation to mitigating wind erosion. The proponent has also confirmed that the following erosion management actions will be adhered to in the expanded extraction area (pers. comm. Glenn Rule, 2012):

- Clearing will be staged with only 2 hectares being exposed at one time;
- Leaving 100 metre wide vegetated high dune between the ocean and the pit floor to protect the pit floor from the prevailing sea breezes;
- Keeping the pit floor 10 centimetres above the underlying watertable to keep the pit floor damp;
- Utilising fibrous root material in overburden to stabilise overburden stockpiles until they are used; and,
- Have a water truck onsite during operations to wet down soil in the pit and approach roads.

Although at variance to Principle (g), the risk of erosion can be mitigated by imposing conditions in relation to staged clearing and rehabilitation. The requirement for a 100 metre vegetated buffer reduces the area approved to be cleared from 11.49 hectares to 11 hectares.

Current environmental information has been reviewed and the assessment of clearing principles (h), (i) and (j) is consistent with the assessment in Clearing Permit Decision Report CPS 3328/2 (GIS Database). Therefore the

proposed clearing is not likely to be at variance to Principles (h), (i) and (j).

Methodology Bolland (2009)
Ecologia (2009)
Government of Western Australia (2011)
GIS Database:
- DEC Tenure
- Evaporation Isoleths
- Hydrography, linear
- Pre-European Vegetation
- Public Drinking Water Source Areas (PDWSAs)
- Rainfall, Mean Annual (Rainfall)
- Rangeland Land System Mapping
- Threatened Ecological Sites
- Threatened and Priority Flora
- WA coastline

Planning instrument, Native Title, Previous EPA decision or other matter.

Comments

There are two native title claims in the application area (WC97/71 and WC03/6) (GIS Database). These claims have been registered with the National Native Title Tribunal on behalf of the claimant group and filed at the Federal Court of Australia respectively (GIS Database). 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 is one registered Site of Aboriginal Significance located in the area applied to clear (Site ID 3237) (GIS Database). It is the proponent's responsibility to comply with the *Aboriginal Heritage Act 1972* and ensure that no Sites of Aboriginal Significance are damaged through the clearing process.

The amendment was advertised on 19 November 2012 by the Department of Mines and Petroleum inviting submissions from the public. Two submissions were received in relation to the proposed clearing. One submission raised concerns about the potential for dust to be generated. A staged clearing condition has been placed on the permit to mitigate the potential for wind erosion. The proponent has also outlined a number of dust management measures which is outlined under Principle (g). The other submission requested an opportunity to provide comments at a later date. In procedural fairness to the proponent, this was not supported by the DMP.

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

Methodology GIS Database:
- Aboriginal Sites of Significance
- Native Title Claims – Registered with the NNTT
- Native Title Claims – Filed at the Federal Court

4. References

Bolland, M. (2009) Soils of the Swan Coastal Plain. Bulletin 4359. Available online from:
http://www.agric.wa.gov.au/PC_92469.html. Department of Agriculture and Food Western Australia.
Ecologia (2009) Rules Lime Sand Vegetation and Flora Assessment (L70/102). Ecologia Environment, Western Australia.
Government of Western Australia (2011) 2011 Statewide Vegetation Statistics incorporating the CAR Reserve Analysis (Full Report). WA Department of Environment and Conservation, Perth.
J and G Rule (2009) Clearing Permit Application Supporting Documentation, September 2009.
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:

BoM	Bureau of Meteorology, Australian Government
CALM	Department of Conservation and Land Management (now DEC), Western Australia
DAFWA	Department of Agriculture and Food, Western Australia
DEC	Department of Environment and Conservation, Western Australia
DEH	Department of Environment and Heritage (federal based in Canberra) previously Environment Australia
DEP	Department of Environment Protection (now DEC), Western Australia
DIA	Department of Indigenous Affairs

DLI	Department of Land Information, Western Australia
DMP	Department of Mines and Petroleum, Western Australia
DoE	Department of Environment (now DEC), Western Australia
DoIR	Department of Industry and Resources (now DMP), Western Australia
DOLA	Department of Land Administration, Western Australia
DoW	Department of Water
EP Act	Environmental Protection Act 1986, 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
RIWI Act	Rights in Water and Irrigation Act 1914, Western Australia
s.17	Section 17 of the Environment Protection Act 1986, Western Australia
TEC	Threatened Ecological Community

Definitions:

{Atkins, K (2005). *Declared rare and priority flora list for Western Australia, 22 February 2005. Department of Conservation and Land Management, Como, Western Australia* }:-

- P1** **Priority One - Poorly Known taxa:** taxa which are known from one or a few (generally <5) populations which are under threat, either due to small population size, or being on lands under immediate threat, e.g. road verges, urban areas, farmland, active mineral leases, etc., or the plants are under threat, e.g. from disease, grazing by feral animals, etc. May include taxa with threatened populations on protected lands. Such taxa are under consideration for declaration as 'rare flora', but are in urgent need of further survey.
- P2** **Priority Two - Poorly Known taxa:** taxa which are known from one or a few (generally <5) populations, at least some of which are not believed to be under immediate threat (i.e. not currently endangered). Such taxa are under consideration for declaration as 'rare flora', but are in urgent need of further survey.
- P3** **Priority Three - Poorly Known taxa:** taxa which are known from several populations, at least some of which are not believed to be under immediate threat (i.e. not currently endangered). Such taxa are under consideration for declaration as 'rare flora', but are in need of further survey.
- P4** **Priority Four – Rare taxa:** taxa which are considered to have been adequately surveyed and which, whilst being rare (in Australia), are not currently threatened by any identifiable factors. These taxa require monitoring every 5–10 years.
- R** **Declared Rare Flora – Extant taxa (= Threatened Flora = Endangered + Vulnerable):** taxa which have been adequately searched for, and are deemed to be in the wild either rare, in danger of extinction, or otherwise in need of special protection, and have been gazetted as such, following approval by the Minister for the Environment, after recommendation by the State's Endangered Flora Consultative Committee.
- X** **Declared Rare Flora - Presumed Extinct taxa:** taxa which have not been collected, or otherwise verified, over the past 50 years despite thorough searching, or of which all known wild populations have been destroyed more recently, and have been gazetted as such, following approval by the Minister for the Environment, after recommendation by the State's Endangered Flora Consultative Committee.

{Wildlife Conservation (Specially Protected Fauna) Notice 2005} [Wildlife Conservation Act 1950] :-

- Schedule 1** **Schedule 1 – Fauna that is rare or likely to become extinct:** being fauna that is rare or likely to become extinct, are declared to be fauna that is need of special protection.
- Schedule 2** **Schedule 2 – Fauna that is presumed to be extinct:** being fauna that is presumed to be extinct, are declared to be fauna that is need of special protection.
- Schedule 3** **Schedule 3 – Birds protected under an international agreement:** being birds that are subject to an agreement between the governments of Australia and Japan relating to the protection of migratory birds and birds in danger of extinction, are declared to be fauna that is need of special protection.
- Schedule 4** **Schedule 4 – Other specially protected fauna:** being fauna that is declared to be fauna that is in need of special protection, otherwise than for the reasons mentioned in Schedules 1, 2 or 3.

{CALM (2005). *Priority Codes for Fauna. Department of Conservation and Land Management, Como, Western Australia* }:-

- P1** **Priority One: Taxa with few, poorly known populations on threatened lands:** Taxa which are known from few specimens or sight records from one or a few localities on lands not managed for conservation, e.g. agricultural or pastoral lands, urban areas, active mineral leases. The taxon needs urgent survey and evaluation of conservation status before consideration can be given to declaration as threatened fauna.
- P2** **Priority Two: Taxa with few, poorly known populations on conservation lands:** Taxa which are known from few specimens or sight records from one or a few localities on lands not under immediate threat of habitat destruction or degradation, e.g. national parks, conservation parks, nature reserves, State forest, vacant Crown land, water reserves, etc. The taxon needs urgent survey and evaluation of conservation status before consideration can be given to declaration as threatened fauna.
- P3** **Priority Three: Taxa with several, poorly known populations, some on conservation lands:** Taxa which

are known from few specimens or sight records from several localities, some of which are on lands not under immediate threat of habitat destruction or degradation. The taxon needs urgent survey and evaluation of conservation status before consideration can be given to declaration as threatened fauna.

P4 Priority Four: Taxa in need of monitoring: Taxa which are considered to have been adequately surveyed, or for which sufficient knowledge is available, and which are considered not currently threatened or in need of special protection, but could be if present circumstances change. These taxa are usually represented on conservation lands.

P5 Priority Five: Taxa in need of monitoring: Taxa which are not considered threatened but are subject to a specific conservation program, the cessation of which would result in the species becoming threatened within five years.

Categories of threatened species (*Environment Protection and Biodiversity Conservation Act 1999*)

EX Extinct: A native species for which there is no reasonable doubt that the last member of the species has died.

EX(W) Extinct in the wild: A native species which:
(a) is known only to survive in cultivation, in captivity or as a naturalised population well outside its past range; or
(b) has not been recorded in its known and/or expected habitat, at appropriate seasons, anywhere in its past range, despite exhaustive surveys over a time frame appropriate to its life cycle and form.

CR Critically Endangered: A native species which is facing an extremely high risk of extinction in the wild in the immediate future, as determined in accordance with the prescribed criteria.

EN Endangered: A native species which:
(a) is not critically endangered; and
(b) is facing a very high risk of extinction in the wild in the near future, as determined in accordance with the prescribed criteria.

VU Vulnerable: A native species which:
(a) is not critically endangered or endangered; and
(b) is facing a high risk of extinction in the wild in the medium-term future, as determined in accordance with the prescribed criteria.

CD Conservation Dependent: A native species which is the focus of a specific conservation program, the cessation of which would result in the species becoming vulnerable, endangered or critically endangered within a period of 5 years.

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.