



# Clearing Permit Decision Report

## 1. Application details

### 1.1. Permit application details

Permit application No.: 5068/1  
Permit type: Purpose Permit

### 1.2. Proponent details

Proponent's name: BHP Billiton Iron Ore Pty Ltd

### 1.3. Property details

Property: Iron Ore (Goldsworthy-Nimingarra) Agreement Act 1972, Mining Lease 263SA (AM 70/263)  
Local Government Area: Shire of East Pilbara  
Colloquial name: Waste Rock Stockpiles

### 1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	For the purpose of:
7.4		Mechanical Removal	Waste Rock Stockpile Removal

### 1.5. Decision on application

Decision on Permit Application: Grant  
Decision Date: 5 July 2012

## 2. Site Information

### 2.1. Existing environment and information

#### 2.1.1. Description of the native vegetation under application

##### Vegetation Description

The application area consists of two separate areas of waste rock stockpile at Nimingarra mine site (BHP Billiton Iron Ore Pty Ltd (BHPBIO), 2012a). These areas have not been rehabilitated and minor regrowth has occurred. This regrowth is no older than 10 years and consists of a small number of isolated plants growing on the waste rock stockpiles (BHPBIO, 2012a).

##### Clearing Description

BHPBIO has applied to clear 7.4 hectares within an application area of approximately 7.4 hectares (GIS Database). The application area is located at the Nimingarra mine site and approximately 13 kilometres north west of Shay Gap and approximately 85 kilometres north east of Marble Bar (GIS Database; BHPBIO, 2012a).

The purpose of the application is to remove the existing waste rock stockpiles to use the waste rock for base material at the Shay Gap Airport (BHPBIO, 2012a). Clearing will be by mechanical means.

##### Vegetation Condition

Completely Degraded: No longer intact; completely/almost completely without native species (Keighery, 1994).

##### Comment

The vegetation condition was derived from information and aerial imagery supplied by BHPBIO (2012a).

The application area consists of one area of medium grade waste rock stockpile and a second area of fines waste rock stockpile and is adjacent to historically disturbed land (BHPBIO, 2012a).

The application area was included in the boundary of a recent flora and vegetation survey covering approximately 12,495 hectares by Astron Environmental Services (Astron). The field survey was conducted between 14 and 25 March 2011 and 11 and 20 April 2011 (Astron, 2011).

## 3. Assessment of application against clearing principles

**Comments** BHPBIO has applied to clear native vegetation within 7.4 hectares of waste rock stockpile (BHPBIO, 2012a). An assessment of this application indicates it is unlikely to have any significant environmental impacts.

Vegetation within the application area occurs as a small number of isolated plants growing on the waste rock stockpiles (BHPBIO, 2012a). Aerial imagery and photographs provided by BHPBIO (2012a) show the application area is mostly devoid of vegetation and is located within an area that remains largely uncleared beyond the mine site. The application area, therefore, comprises a low level of biological diversity and has reduced habitat value for native flora and fauna species occurring in the area.

According to available databases (GIS Database), no Threatened or Priority Flora have been recorded within the application area. Although located within the vegetation survey boundary, the application area was unlikely to have been surveyed directly for conservation significant flora species given its close proximity to historical operational areas (BHPBIO, 2012b). Seven Priority Flora species have been recorded within the survey area

during current or previous surveys with the nearest record more than two kilometres from the application area (Astron, 2011, BHPBIO, 2012b). The Priority Flora recorded includes *Rothia indica* subsp. *australis* (Priority 1), *Euphorbia clementii* (Priority 2), *Croton aridus* (Priority 3), *Nicotiana umbratica* (Priority 3), *Euphorbia inappendiculata* (Priority 3), *Acacia glaucocaesia* (Priority 3) and *Goodenia nuda* (Priority 4). The vegetation survey also identified ten flora species that are possible range extensions (Astron, 2011). BHPBIO (2012b) have reviewed flora survey records, preferred habitat types and the surrounding vegetation and found the application area does not provide suitable habitat for either the priority flora or possible range extension species. Based on the above, it is considered unlikely that Threatened or Priority Flora occurs within the application area.

No known Threatened Ecological Communities (TEC), Priority Ecological Communities (PEC) or conservation areas occur within the application area (GIS Database). The nearest known TEC, PEC and conservation area is located over 50 kilometres from the application area (GIS Database).

There are no watercourses within the application area and the closest watercourse is a minor non-perennial watercourse located approximately 800 metres west of the application area (BHPBIO, 2012a, GIS Database). The application area is highly disturbed, therefore, the proposed clearing is unlikely to result in any significant changes in land degradation impacts such as erosion, waterlogging, salinity and flooding. The removal of a small amount of scattered vegetation is also unlikely to cause deterioration in the quality of groundwater or nearby surface water.

The assessment of the application identified that the proposed clearing is not likely to be at variance to Principles (a), (b), (c), (d), (f), (g), (h), (i) and (j) and is not at variance to Principle (e).

**Methodology** Astron (2011)  
BHPBIO (2012a)  
BHPBIO (2012b)  
GIS Database:  
- DEC Tenure  
- Hydrography, linear  
- Pardoo Keraudren 50cm Orthomosaic – Landgate 2004  
- Threatened and Priority Flora  
- Threatened Ecological Sites Buffered  
- Threatened Fauna

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

**Comments** There is one native title claim over the area under application: WC99/8 (GIS Database). This claim has been registered with the Native Title Tribunal on behalf of the claimant groups. 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*.

According to available databases, there are no registered Aboriginal Sites of Significance within the application area (GIS Database). 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 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.

The clearing permit application was advertised on 4 June 2012 by the Department of Mines and Petroleum inviting submissions from the public. There were no submissions received.

**Methodology** GIS Database:  
- Aboriginal Sites of Significance  
- Native Title Claims – Registered with the NNTT

#### **4. References**

- Astron (2011) Nimingarra and Shay Gap Vegetation and Flora Survey April 2011. Unpublished report prepared for BHP Billiton Iron Ore Pty Ltd dated April 2011.
- BHPBIO (2012a) Application for a Native Vegetation Clearing Permit for the clearing of minor regrowth on two waste stockpiles at Nimingarra. Letter from BHP Billiton Iron Ore Pty Ltd to Department of Mines and Petroleum dated 17 May 2012.
- BHPBIO (2012b) Further Information provided by BHP Billiton Iron Ore Pty Ltd in email correspondence dated 27 June 2012.
- Keighery, B.J. (1994) Bushland Plant Survey: A Guide to Plant Community Survey for the Community. Wildflower Society of WA.

## 5. Glossary

### Acronyms:

<b>BoM</b>	Bureau of Meteorology, Australian Government
<b>CALM</b>	Department of Conservation and Land Management (now DEC), Western Australia
<b>DAFWA</b>	Department of Agriculture and Food, Western Australia
<b>DEC</b>	Department of Environment and Conservation, Western Australia
<b>DEH</b>	Department of Environment and Heritage (federal based in Canberra) previously Environment Australia
<b>DEP</b>	Department of Environment Protection (now DEC), Western Australia
<b>DIA</b>	Department of Indigenous Affairs
<b>DLI</b>	Department of Land Information, Western Australia
<b>DMP</b>	Department of Mines and Petroleum, Western Australia
<b>DoE</b>	Department of Environment (now DEC), Western Australia
<b>DoIR</b>	Department of Industry and Resources (now DMP), Western Australia
<b>DOLA</b>	Department of Land Administration, Western Australia
<b>DoW</b>	Department of Water
<b>EP Act</b>	Environmental Protection Act 1986, Western Australia
<b>EPBC Act</b>	Environment Protection and Biodiversity Conservation Act 1999 (Federal Act)
<b>GIS</b>	Geographical Information System
<b>ha</b>	Hectare (10,000 square metres)
<b>IBRA</b>	Interim Biogeographic Regionalisation for Australia
<b>IUCN</b>	International Union for the Conservation of Nature and Natural Resources – commonly known as the World Conservation Union
<b>RIWI Act</b>	Rights in Water and Irrigation Act 1914, Western Australia
<b>s.17</b>	Section 17 of the Environment Protection Act 1986, Western Australia
<b>TEC</b>	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.