



# Clearing Permit Decision Report

## 1. Application details and outcome

### 1.1. Permit application details

Permit number:	5505/4
Permit type:	Purpose Permit
Applicant name:	Western Areas Limited
Application received:	24 January 2022
Application area:	30 hectares within a total boundary of approximately 654 hectares
Purpose of clearing:	Mineral exploration and mineral production
Method of clearing:	Mechanical Removal
Tenure:	Mining Lease 77/545 Mining Lease 77/582 Mining Lease 77/583 Mining Lease 77/584 Mining Lease 77/912
Location (LGA area/s):	Shire of Kondinin
Colloquial name:	Forrestania Nickel Project

### 1.2. Description of clearing activities

Western Areas Limited has applied to amend an existing clearing permit (CPS 5505/2). The permit is located at an existing operational minesite, approximately 77 kilometres east of Hyden, within the Shire of Kondinin (GIS Database).

Clearing permit CPS 5505/1 was granted to Western Areas NL by the Department of Mines and Petroleum (now the Department of Mines, Industry Regulation and Safety) on 16 May 2013, and was valid from 8 June 2013 to 8 June 2018. The permit authorised the clearing of up to 30 hectares of native vegetation within a boundary of approximately 654 hectares, for the purposes of mineral exploration and mineral production.

CPS 5505/2 was granted on 15 February 2018, amending the permit to extend the permit duration to 8 June 2022 and update the Permit Holder name to Western Areas Limited to reflect a change in company name.

On 24 January 2022, the Permit Holder applied to amend CPS 5505/2 to extend the permit duration for a further five years. The area of clearing authorised and the permit boundaries are to remain unchanged. (The current amendment application number is CPS 5505/4 due to a database technical error which resulted in 5505/3 being skipped.)

The Permit Holder has reported that a total of 5.17 hectares of clearing has been undertaken under this permit, up to 30 June 2021 (Western Areas, 2021). The mining operations at the site are expected to continue for at least another five years (Western Areas, 2022). Hence the Permit Holder has requested an extension to the permit duration to allow for ongoing mineral exploration and mineral production activities at the site.

### 1.3. Decision on application and key considerations

Decision:	Grant
Decision date:	24 March 2022
Decision area:	30 hectares within a total boundary of approximately 654 hectares

### 1.4. Reasons for decision

This clearing permit amendment application was made in accordance with section 51KA of the *Environmental Protection Act 1986* (EP Act) and was received by the Department of Mines, Industry Regulation and Safety (DMIRS)

on 24 January 2022. DMIRS advertised the application for public comment for a period of 21 days, and no submissions were received.

In making this decision, the Delegated Officer had regard for the site characteristics, relevant datasets, supporting information provided by the applicant, the Clearing Principles set out in Schedule 5 of the EP Act, and any other matters considered relevant to the assessment. The Delegated Officer also took into consideration that the amendment relates to an extension of permit duration only, and there is no change to the amount of clearing authorised or the permit boundaries.

The assessment of the amendment application remains consistent with the assessment of the original permit application, CPS 5505/1. The management conditions on the existing permit are considered appropriate to manage the potential environmental impacts of continued clearing. The Delegated Officer determined that the proposed extension of the permit duration for an additional five years is unlikely to result in any significant additional impacts to the environmental values of the permit area.

After consideration of the available information, the Delegated Officer determined that the proposed amendment is not likely to lead to an unacceptable risk to the environment. The Delegated Officer decided to grant the amended clearing permit retaining the existing permit conditions.

## **2. Assessment of application**

### **2.1. Avoidance and mitigation measures**

The Permit Holder has advised that the following avoidance and mitigation measures will be implemented to minimise potential impacts of the proposed clearing on environmental values (Western Areas, 2013; 2022):

- the layout of infrastructure will be planned to avoid disturbance of Priority species where possible;
- clearing for mineral exploration activities will be kept to the minimum required to allow safe access;
- proposed clearing areas will be surveyed and marked out prior to clearing to avoid potential unintended clearing; and
- cleared areas no longer being utilised will be progressively rehabilitated.

The Delegated Officer was satisfied that the proponent has made a reasonable effort to avoid and minimise potential impacts of the proposed clearing on environmental values.

### **2.2. Assessment of impacts on environmental values**

The Permit Holder has applied to amend the permit, to extend the permit duration by five years, as the project is ongoing. There is no change to the amount of clearing authorised or the permit boundaries.

The permit area is located within the Southern Cross subregion of the Interim Biogeographic Regionalisation of Australia (IBRA) Coolgardie bioregion and the Western Mallee subregion of the IBRA Mallee Bioregion (GIS Database). Approximately 98% and 56% of the pre-European vegetation still exists in these two Bioregions, respectively (Government of Western Australia, 2019). The permit area is broadly mapped as Beard vegetation associations: 511: Medium woodland; salmon gum and morrel; and 2048: Shrublands; scrub-heath in the Mallee Region (GIS Database). At the State level, Beard Associations 511 and 2048 retain approximately 74% and 50%, respectively, of their pre-European extents (Government of Western Australia, 2019). Within the Coolgardie Bioregion and Southern Cross subregion, both of these vegetation associations retain over 90% of their pre-European extents (Government of Western Australia, 2019). Within the Mallee Bioregion and Western Mallee subregion, over 48% of the pre-European extent of these two vegetation associations remains uncleared (Government of Western Australia, 2019).

The existing clearing permit area falls partly within an Environmentally Sensitive Area, the Lake Cronin Area, which was listed on the Register of National Estate for its environmental values (GIS Database). The permit area is also partly within a Priority Ecological Community, the Ironcap Hills vegetation complexes (Priority 3), and several conservation significant flora and fauna species have the potential to occur within the permit area (GIS Database).

The assessment of the original clearing permit application (CPS 5505/1) identified that the clearing permit area and adjacent areas have significant environmental values, including a high level of biodiversity and habitat suitable for conservation significant species. Several management conditions were imposed on the permit to minimise and

mitigate potential impacts of the proposed clearing on the environmental values. These include conditions for restricted clearing; weed and dieback control; flora and fauna management; and watercourse management.

The size of the area proposed to be cleared under the permit and the permit boundaries have not changed since the original permit was granted, and the extension in duration of the permit by five years is unlikely to result any significant change to the environmental impacts of the proposed clearing.

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 decision report CPS 5505/1. All existing permit conditions are to be retained on the permit to manage potential environmental impacts of the continued clearing.

### **2.3. Relevant planning instruments and other matters**

The clearing permit amendment application was advertised on 8 March 2022 by the Department of Mines, Industry Regulation and Safety (DMIRS), inviting submissions from the public. No submissions were received in relation to this application.

There is one native title claim over the area under application (DPLH, 2022). This claim has been determined by the Federal Court 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*.

There are no registered Aboriginal Sites of Significance within the application area (DPLH, 2022). 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.

Other relevant authorisations required for the proposed land use include:

- A Programme of Work approved under the *Mining Act 1978*;
- A Mining Proposal / Mine Closure Plan approved under the *Mining Act 1978*.

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.

## **Appendix A - References and databases**

### **1. GIS datasets**

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

- DBCA - Lands of Interest (DBCA-012)
- DBCA - Legislated Lands and Waters (DBCA-011)
- Environmentally Sensitive Areas (DWER-046)
- Hydrography, Lakes
- Hydrography, linear
- IBRA Australia
- Imagery
- Landsystem Rangelands
- Pre-European Vegetation Statistics
- Public Drinking Water Source Areas (DWER-033)

Restricted GIS Databases used:

- 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

- DPLH (2022) Aboriginal Heritage Inquiry System. Department of Planning, Lands and Heritage. <https://espatial.dplh.wa.gov.au/AHIS/index.html?viewer=AHIS> (Accessed 17 March 2022).
- Government of Western Australia (2019) 2018 Statewide Vegetation Statistics incorporating the CAR Reserve Analysis (Full Report). Current as of March 2019. WA Department of Biodiversity, Conservation and Attractions, Perth. <https://catalogue.data.wa.gov.au/dataset/dbca-statewide-vegetation-statistics>
- Western Areas (2013) Supporting document for Clearing Permit (Purpose) Application. Mining tenements M77/582, M77/545, M77/583, M77/912, M77/584. Western Areas Limited, January 2013.
- Western Areas (2021) Clearing Permit Annual Report. CPS 5505/2 – Flying Fox and New Morning Mineral Production and Mineral Exploration. Western Areas Limited, July 2021.
- Western Areas (2022) Application to Amend Clearing Permit CPS 5505/2. Western Areas Limited, January 2022.

## Appendix B - Glossary

### Acronyms:

<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i> , Western Australia
<b>BoM</b>	Bureau of Meteorology, Australian Government
<b>DAA</b>	Department of Aboriginal Affairs, Western Australia (now DPLH)
<b>DAFWA</b>	Department of Agriculture and Food, Western Australia (now DPIRD)
<b>DAWE</b>	Department of Agriculture, Water and the Environment, Australian Government
<b>DBCA</b>	Department of Biodiversity, Conservation and Attractions, Western Australia
<b>DER</b>	Department of Environment Regulation, Western Australia (now DWER)
<b>DMIRS</b>	Department of Mines, Industry Regulation and Safety, Western Australia
<b>DMP</b>	Department of Mines and Petroleum, Western Australia (now DMIRS)
<b>DoEE</b>	Department of the Environment and Energy (now DAWE)
<b>DoW</b>	Department of Water, Western Australia (now DWER)
<b>DPaW</b>	Department of Parks and Wildlife, Western Australia (now DBCA)
<b>DPIRD</b>	Department of Primary Industries and Regional Development, Western Australia
<b>DPLH</b>	Department of Planning, Lands and Heritage, Western Australia
<b>DRF</b>	Declared Rare Flora (now known as Threatened Flora)
<b>DWER</b>	Department of Water and Environmental Regulation, Western Australia
<b>EP Act</b>	<i>Environmental Protection Act 1986</i> , Western Australia
<b>EPA</b>	Environmental Protection Authority, Western Australia
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (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>PEC</b>	Priority Ecological Community, Western Australia
<b>RIWI Act</b>	<i>Rights in Water and Irrigation Act 1914</i> , Western Australia
<b>TEC</b>	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.