



Clearing Permit Decision Report

1. Application details and outcome

1.1. Permit application details

Permit number:	6654/3
Permit type:	Purpose Permit
Applicant name:	Western Areas Limited
Application received:	10 November 2021
Application area:	32 hectares
Purpose of clearing:	Mineral Production and Associated Activities
Method of clearing:	Mechanical Removal
Tenure:	Mining Lease 77/545
Location (LGA area/s):	Shire of Kondinin
Colloquial name:	Forrestania Nickel Operation

1.2. Description of clearing activities

Western Areas Limited proposes to clear up to 32 hectares of native vegetation within a boundary of approximately 121 hectares, for the purpose of mineral production and associated activities.

The application is to allow for the development of additional borrow pits to support paste fill plant operations and other mining infrastructure projects (Western Areas, 2021).

CPS 6654/1 was granted by the Department of Mines and Petroleum (now the Department of Mines, Industry Regulation and Safety) on 21 August 2015 and was valid from 12 September 2015 to 31 October 2020. The permit authorised the clearing of up to 12 hectares of native vegetation within a boundary of approximately 121 hectares, for the purpose of mineral production and associated activities.

CPS 6654/2 was granted on 29 October 2020, amending the permit to extend the permit duration to 31 October 2025. The area of clearing authorised and the permit boundaries remained unchanged.

On 10 November 2021, the Permit Holder applied to amend CPS 6654/2 to increase the amount of clearing authorised by 20 hectares.

1.3. Decision on application and key considerations

Decision:	Grant
Decision date:	5 April 2022
Decision area:	32 hectares of native vegetation

1.4. Reasons for decision

This clearing permit 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 10 November 2021. 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 including the results of a flora and vegetation survey and fauna survey, the clearing principles set out in Schedule 5 of the EP Act, and any other matters considered relevant to the assessment. The assessment identified that the proposed clearing will have negligible impact on habitat for flora, fauna and ecological communities, and conservation areas.

After consideration of the available information, as well as the applicant's minimisation and mitigation measures, the Delegated Officer determined that the proposed clearing is not likely to lead to an unacceptable risk to the

environment. The Delegated Officer decided to grant a clearing permit with staged clearing, avoid/minimise, weed, and flora management conditions.

2. Assessment of application

2.1. Avoidance and mitigation measures

The applicant has advised that all activities will adhere to their internal procedures for ground disturbance and vehicle hygiene. The proposed clearing will be undertaken in a progressive manner to avoid unnecessary clearing. The applicant has stated that all conservation significant flora and fauna species will be avoided where possible (Western Areas, 2021).

The applicant has demonstrated that reasonable efforts have been taken to avoid and minimise potential impacts of the clearing on environmental values.

2.2. Assessment of impacts on environmental values

A recent reconnaissance flora and vegetation survey identified two vegetation types within the amendment area (Botanica, 2021). The vegetation of the amendment area was dominated by *Eucalyptus* shrubland, *Melaleuca* heathland, *Banksia* and *Hakea* heathland, and *Acacia* shrubland (Botanica, 2021). Neither vegetation types were representative of any Threatened or Priority Ecological Communities (TEC/PEC) (Botanica, 2021; Western Areas, 2021). The amendment area is located approximately 760 metres from the Ironcap Hills vegetation complexes (Mt Holland, Middle, North and South Ironcap Hills, Digger Rock and Hatter Hill) banded ironstone formation PEC (P3) (GIS Database). The vegetation types identified within the amendment area were not considered analogous with this PEC (Botanica, 2021; Western Areas, 2021). The proposed amendment is unlikely to have an impact on this PEC.

A targeted survey was conducted over the proposed borrow pit resource area (20 ha), no Threatened flora were identified within this area or within the broader amendment area (Botanica, 2021). One Priority flora species was identified within the amendment area: *Eutaxia hirsuta* (P2) (Botanica, 2021). This species was previously recorded within the amendment area by Astron (2014), with additional locations recorded during the recent survey (Botanica, 2021). Western Areas (2021) have stated that locations of Priority flora identified will have a 10 metre exclusion zone enforced. No direct impacts to Priority flora are expected from the proposed amendment. Potential impacts to *Eutaxia hirsuta* as a result of the proposed clearing may be minimised through the existing flora management condition.

No conservation significant fauna or evidence of their presence was recorded within the amendment area during a recent (September 2021) basic fauna survey (Botanica, 2021; Western Areas, 2021). A number of conservation significant fauna species were determined to possibly occur within the amendment area based on potentially suitable habitat (Astron, 2014; Botanica, 2021). Past surveys (2006-2007) have recorded a number of conservation significant fauna species in the surrounds (Biota, 2007), however Astron (2014) did not record any conservation significant fauna species. The fauna habitats recorded are not restricted to the amendment area and extend into surrounding areas (Botanica, 2021). Fauna habitats in the amendment area were considered to be marginal and potential conservation significant fauna species may only visit the area infrequently and/or for short periods of time (Botanica, 2021). It is unlikely that the vegetation within the amendment area will provide significant habitat for any conservation significant fauna species.

The amendment area falls within the Mallee Bioregion, in the Western Mallee Subregion (GIS Database). The amendment area is broadly mapped as Beard vegetation association 2048: Shrublands; scrub-heath in the Mallee Region (GIS Database). Approximately 49-50% of the pre-European extent of this vegetation association remains uncleared at both the state, bioregion, and subregion level (Government of Western Australia, 2019). The increased clearing of 20 hectares of native vegetation represents <0.001% of the remaining vegetation within vegetation association 2048. The proposed clearing is unlikely to significantly reduce vegetation in an area that is extensively cleared.

The soils of the amendment area are comprised of sandy duplexes with ironstone gravelly soils, loamy earths, some loamy duplexes, sandy earths, deep sands, and saline wet soils (Western Areas, 2021). Soils within the amendment area may be prone to wind erosion. Potential land degradation as a result from the proposed clearing may be minimised through the existing staged clearing condition.

The nearest conservation area is the Lake Cronin Nature Reserve which is located approximately 5.7 kilometres northeast of the amendment area (GIS Database). The amendment area is also located within the Lake Cronin Area, which is listed as an Environmentally Sensitive Area (Register of National Estate) (GIS Database). This ESA

is the buffer zone around Lake Cronin (GIS Database). The proposed clearing is not likely to impact on the environmental values of Lake Cronin Nature Reserve.

There are no permanent or ephemeral watercourses or wetlands within the amendment areas (GIS Database). The proposed clearing is not likely to impact surface water quality, groundwater quality or lead to increase in flooding.

The vegetation associations, fauna habitats and landform types present within the permit area, are well represented in surrounding areas (Botanica, 2021; Western Areas, 2021; GIS Database). The increase in authorised clearing from 12 hectares to 30 hectares within the existing permit boundary 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 previous versions of the decision report.

2.3. Relevant planning instruments and other matters

The permit area is within the South West Native Title Settlement area (DPLH, 2022). This settlement resolves Native Title rights and interests over an area of approximately 200,000 square kilometres within the south west of Western Australia. 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.

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.

Other relevant authorisations that may be required for the proposed land use include:

- A Mining Proposal / Mine Closure Plan issued under *Mining Act 1978*.
- Works approval / licence issued under Part V Division 3 of the EP Act.
- Licence to abstract water under the *Rights in Water and Irrigation Act 1914*.
- Permit to interfere with bed and banks under the *Rights in Water and Irrigation Act 1914*.

Appendix A - References and databases

1. GIS datasets

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

- DBCA – Lands of Interest (DBCA-012)
- DBCA Legislated Lands and Waters (DBCA-011)
- Hydrography, Linear (DWER-031)
- IBRA Vegetation Statistics
- Pre-European Vegetation Statistics
- WA Now Aerial Imagery

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

Astron (2014) Forrestania Nickel Operations. Lounge Lizard. Vegetation, Flora and Fauna Biological Assessment. Report prepared for Western Areas Limited, by Astron Environmental Services, October 2014.

Biota (2007) Forrestania Fauna Monitoring Survey - Flying Fox Phases III and IV. Unpublished Report Prepared for Western Areas NL by Biota Environmental Sciences Pty Ltd.

Botanica (2021) Flora/Vegetation and Fauna Assessment. Lounge Lizard Sand Pits. Prepared For Western Areas Limited. Botanica Consulting, October 2021.

Department of Planning, Lands and Heritage (DPLH) (2022) Aboriginal Heritage Inquiry System. Department of Planning, Lands and Heritage. <https://espatial.dplh.wa.gov.au/AHIS/index.html?viewer=AHIS> (Accessed 18 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. <https://catalogue.data.wa.gov.au/dataset/dbca-statewide-vegetation-statistics>

Western Areas (2021) Forrestania Nickel Operation. CPS 6654/2 Amendment Application – Supporting Document. Western Areas Limited, November 2021.

1. Glossary

Acronyms:

BC Act	<i>Biodiversity Conservation Act 2016</i> , Western Australia
BoM	Bureau of Meteorology, Australian Government
DAA	Department of Aboriginal Affairs, Western Australia (now DPLH)
DAFWA	Department of Agriculture and Food, Western Australia (now DPIRD)
DAWE	Department of Agriculture, Water and the Environment, Australian Government
DBCA	Department of Biodiversity, Conservation and Attractions, Western Australia
DER	Department of Environment Regulation, Western Australia (now DWER)
DMIRS	Department of Mines, Industry Regulation and Safety, Western Australia
DMP	Department of Mines and Petroleum, Western Australia (now DMIRS)
DoEE	Department of the Environment and Energy (now DAWE)
DoW	Department of Water, Western Australia (now DWER)
DPaW	Department of Parks and Wildlife, Western Australia (now DBCA)
DPIRD	Department of Primary Industries and Regional Development, Western Australia
DPLH	Department of Planning, Lands and Heritage, Western Australia
DRF	Declared Rare Flora (now known as Threatened Flora)
DWER	Department of Water and Environmental Regulation, Western Australia
EP Act	<i>Environmental Protection Act 1986</i> , Western Australia
EPA	Environmental Protection Authority, Western Australia
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Federal Act)
GIS	Geographical Information System
ha	Hectare (10,000 square metres)
IBRA	Interim Biogeographic Regionalisation for Australia
IUCN	International Union for the Conservation of Nature and Natural Resources – commonly known as the World Conservation Union
PEC	Priority Ecological Community, Western Australia
RIWI Act	<i>Rights in Water and Irrigation Act 1914</i> , Western Australia
TEC	Threatened Ecological Community

Definitions:

{DBCA (2019) Conservation Codes for Western Australian Flora and Fauna. Department of Biodiversity, Conservation and Attractions, Western Australia}:-

T Threatened species:

Listed by order of the Minister as Threatened in the category of critically endangered, endangered or vulnerable under section 19(1), or is a rediscovered species to be regarded as threatened species under section 26(2) of the *Biodiversity Conservation Act 2016* (BC Act).

Threatened fauna is that subset of 'Specially Protected Fauna' listed under schedules 1 to 3 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for Threatened Fauna.

Threatened flora is that subset of 'Rare Flora' listed under schedules 1 to 3 of the *Wildlife Conservation (Rare Flora) Notice 2018* for Threatened Flora.

The assessment of the conservation status of these species is based on their national extent and ranked according to their level of threat using IUCN Red List categories and criteria as detailed below.

CR **Critically endangered species**

Threatened species considered to be “*facing an extremely high risk of extinction in the wild in the immediate future, as determined in accordance with criteria set out in the ministerial guidelines*”.

Listed as critically endangered under section 19(1)(a) of the BC Act in accordance with the criteria set out in section 20 and the ministerial guidelines. Published under schedule 1 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for critically endangered fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for critically endangered flora.

EN Endangered species

Threatened species considered to be “*facing a very high risk of extinction in the wild in the near future, as determined in accordance with criteria set out in the ministerial guidelines*”.

Listed as endangered under section 19(1)(b) of the BC Act in accordance with the criteria set out in section 21 and the ministerial guidelines. Published under schedule 2 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for endangered fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for endangered flora.

VU Vulnerable species

Threatened species considered to be “*facing a high risk of extinction in the wild in the medium-term future, as determined in accordance with criteria set out in the ministerial guidelines*”.

Listed as vulnerable under section 19(1)(c) of the BC Act in accordance with the criteria set out in section 22 and the ministerial guidelines. Published under schedule 3 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for vulnerable fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for vulnerable flora.

Extinct Species:

EX Extinct species

Species where “*there is no reasonable doubt that the last member of the species has died*”, and listing is otherwise in accordance with the ministerial guidelines (section 24 of the BC Act).

Published as presumed extinct under schedule 4 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* for extinct fauna or the *Wildlife Conservation (Rare Flora) Notice 2018* for extinct flora.

EW Extinct in the wild species

Species that “*is known only to survive in cultivation, in captivity or as a naturalised population well outside its past range; and it has not been recorded in its known habitat or expected habitat, at appropriate seasons, anywhere in its past range, despite surveys over a time frame appropriate to its life cycle and form*”, and listing is otherwise in accordance with the ministerial guidelines (section 25 of the BC Act).

Currently there are no threatened fauna or threatened flora species listed as extinct in the wild. If listing of a species as extinct in the wild occurs, then a schedule will be added to the applicable notice.

Specially protected species:

Listed by order of the Minister as specially protected under section 13(1) of the BC Act. Meeting one or more of the following categories: species of special conservation interest; migratory species; cetaceans; species subject to international agreement; or species otherwise in need of special protection.

Species that are listed as threatened species (critically endangered, endangered or vulnerable) or extinct species under the BC Act cannot also be listed as Specially Protected species.

MI Migratory species

Fauna that periodically or occasionally visit Australia or an external Territory or the exclusive economic zone; or the species is subject of an international agreement that relates to the protection of migratory species and that binds the Commonwealth; and listing is otherwise in accordance with the ministerial guidelines (section 15 of the BC Act).

Includes birds that are subject to an agreement between the government of Australia and the governments of Japan (JAMBA), China (CAMBA) and The Republic of Korea (ROKAMBA), and fauna subject to the *Convention on the Conservation of Migratory Species of Wild Animals* (Bonn Convention), an environmental treaty under the United Nations Environment Program. Migratory species listed under the BC Act are a subset of the migratory animals, that are known to visit Western Australia, protected under the international agreements or treaties, excluding species that are listed as Threatened species.

Published as migratory birds protected under an international agreement under schedule 5 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018*.

CD Species of special conservation interest (conservation dependent fauna)
Fauna of special conservation need being species dependent on ongoing conservation intervention to prevent it becoming eligible for listing as threatened, and listing is otherwise in accordance with the ministerial guidelines (section 14 of the BC Act).

Published as conservation dependent fauna under schedule 6 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018*.

OS Other specially protected species
Fauna otherwise in need of special protection to ensure their conservation, and listing is otherwise in accordance with the ministerial guidelines (section 18 of the BC Act).

Published as other specially protected fauna under schedule 7 of the *Wildlife Conservation (Specially Protected Fauna) Notice 2018*.

P Priority species:

Possibly threatened species that do not meet survey criteria, or are otherwise data deficient, are added to the Priority Fauna or Priority Flora Lists under Priorities 1, 2 or 3. These three categories are ranked in order of priority for survey and evaluation of conservation status so that consideration can be given to their declaration as threatened fauna or flora.

Species that are adequately known, are rare but not threatened, or meet criteria for near threatened, or that have been recently removed from the threatened species or other specially protected fauna lists for other than taxonomic reasons, are placed in Priority 4. These species require regular monitoring.

Assessment of Priority codes is based on the Western Australian distribution of the species, unless the distribution in WA is part of a contiguous population extending into adjacent States, as defined by the known spread of locations.

P1 Priority One - Poorly-known species
Species that are known from one or a few locations (generally five or less) which are potentially at risk. All occurrences are either: very small; or on lands not managed for conservation, e.g. agricultural or pastoral lands, urban areas, road and rail reserves, gravel reserves and active mineral leases; or otherwise under threat of habitat destruction or degradation. Species may be included if they are comparatively well known from one or more locations but do not meet adequacy of survey requirements and appear to be under immediate threat from known threatening processes. Such species are in urgent need of further survey.

P2 Priority Two - Poorly-known species
Species that are known from one or a few locations (generally five or less), some of which are on lands managed primarily for nature conservation, e.g. national parks, conservation parks, nature reserves and other lands with secure tenure being managed for conservation. Species may be included if they are comparatively well known from one or more locations but do not meet adequacy of survey requirements and appear to be under threat from known threatening processes. Such species are in urgent need of further survey.

P3 Priority Three - Poorly-known species
Species that are known from several locations, and the species does not appear to be under imminent threat, or from few but widespread locations with either large population size or significant remaining areas of apparently suitable habitat, much of it not under imminent threat. Species may be included if they are comparatively well known from several locations but do not meet adequacy of survey requirements and known threatening processes exist that could affect them. Such species are in need of further survey.

P4 Priority Four - Rare, Near Threatened and other species in need of monitoring
(a) Rare. Species that are considered to have been adequately surveyed, or for which sufficient knowledge is available, and that are considered not currently threatened or in need of special protection but could be if present circumstances change. These species are usually represented on conservation lands.
(b) Near Threatened. Species that are considered to have been adequately surveyed and that are close to qualifying for vulnerable but are not listed as Conservation Dependent.
(c) Species that have been removed from the list of threatened species during the past five years for reasons other than taxonomy.

Principles for clearing native vegetation:

- (a) Native vegetation should not be cleared if it comprises a high level of biological diversity.
- (b) Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna.
- (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.