



# Clearing Permit Decision Report

## 1. Application details

### 1.1. Permit application details

Permit application No.: 7211/2  
Permit type: Purpose Permit

### 1.2. Proponent details

Proponent's name: J.S.W. Holdings Pty Ltd

### 1.3. Property details

Property: Mining Lease 80/630  
Local Government Area: Shire of Wyndham-East Kimberley  
Colloquial name: Weero Road Shingle Project

### 1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	For the purpose of:
4.37		Mechanical Removal	Sand and shingle mining

### 1.5. Decision on application

Decision on Permit Application: Grant  
Decision Date: 7 October 2021

## 2. Site Information

### 2.1. Existing environment and information

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

**Vegetation Description** The application area has been mapped as the following Beard vegetation association:  
59: Grasslands, high grass savanna sparse tree; bauhinia & coolabah over mitchell, blue & tall upland grasses.

**Clearing Description** Weero Road Shingle Project  
J.S.W Holdings Pty Ltd (J.S.W. Holdings) proposes to clear up to 4.37 hectares within an application area of approximately 4.37 hectares for the purposes of sand and shingle mining. The project is located approximately 6 kilometres north-west of Kununurra within the Shire of Wyndham-East Kimberley.

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

**Comment** The proposed clearing is required for the purpose of sand and shingle mining of approximately 5,000 to 10,000 tonnes of material per year from the alluvial material deposited on the inside of a meander of the Ord River (Austwide, 2016). The quantity of material to be extracted will be dependent upon demand (Austwide, 2016). Sand or shingle material will be extracted from M80/630 and transported off-site to be processed. Minimal native vegetation is located in the application area (Austwide, 2016; GIS Database). The application area contains large areas devoid of vegetation and the majority of the application area has been previously cleared. A small central area of M80/630 contains small shrubs which will be retained. The condition of the vegetation under application was determined via interpretation of aerial imagery and representative photographs provided in the Mining Proposal (Austwide, 2016; GIS Database).

Clearing permit CPS 7211/1 was granted by the Department of Mines and Petroleum (now the Department of Mines, Industry Regulation and Safety) on 22 September 2016 and was valid from 15 October 2016 to 15 October 2021. The permit authorised the clearing of up to 4.37 hectares of native vegetation within a boundary of approximately 4.37 hectares, for the purpose of sand and shingle mining.

On 21 June 2021, the Permit Holder applied to amend CPS 7211/1 for the purpose of extending the permit duration to 2 August 2037.

## 3. Assessment of application against Clearing Principles

### Comments

The permit holder has applied to extend the permit duration by 16 years to 2 August 2037. The permit boundary and amount of approved clearing are to remain the same. A total of 0.74 hectares has been cleared as of 31 December 2020.

The application area occurs within the Victoria Bonaparte Interim Biogeographical Regionalisation for Australia (IBRA) bioregion (GIS Database). The Victoria Bonaparte IBRA region comprises a diverse range of landform features and has not been extensively cleared as approximately 87% of the pre-European vegetation remains (Government of Western Australia, 2019; GIS Database). The vegetation of the application area has been mapped as Beard vegetation association 59 (GIS Database). However, the application area has been previously cleared and is not representative of this vegetation association (Austwide, 2016; GIS Database). The application area is neither a remnant nor does it form part of any remnants within the local area (GIS Database).

No on-ground flora or vegetation surveys have been undertaken over the application area. According to available databases, there are no Threatened Ecological Communities (TEC's) or Priority Ecological Communities (PEC's) occurring within or near the application area (GIS Database). There are also no records of Threatened or Priority flora recorded within the application area (GIS Database).

No fauna surveys have been undertaken over the application area. Given the application area is small (4.37 hectares) and contains areas of previously cleared and disturbed vegetation, the area is not expected to contain a high level of faunal diversity, or provide significant habitat for fauna.

Several weeds species are known from the local area and region. Weed invasion has the potential to alter the biodiversity of an area. Potential impacts to biodiversity as a result of the proposed clearing may be minimised by the implementation of a weed management condition.

DMIRS notes that Purpose Permits are generally approved for a default period of five years, however the permit holder is applying for a 16 year extension to the permit (DMIRS, 2021). Given there are no known TEC's, PEC's, Threatened flora or Priority flora within the application area, DMIRS considers that a 10 year extension to the permit is reasonable. The permit holder may apply for future duration extensions, if required.

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 7211/1.

#### Methodology

Austwide (2016)  
DMIRS (2021)  
Government of Western Australia (2019)

GIS Database:

- DPaW Tenure
- Hydrography, Lakes
- Hydrography, Linear
- IBRA Australia
- Imagery
- Landsystem Rangelands
- Pre-European Vegetation
- Public Drinking Water Source Areas
- Soils, Statewide
- Threatened and Priority Ecological Communities boundaries
- Threatened and Priority Ecological Communities buffers
- Threatened and Priority Flora
- Threatened Fauna

#### Planning Instrument, Native Title, previous EPA decision or other matter.

##### Comments

There is one native title claim (WC1994/002) over the area under application (DPLH, 2021). This claim has been determined by the Federal Court on behalf of the claimant group. 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 two registered Aboriginal Sites of Significance within the application area (DPLH, 2021). 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.

The amendment application was advertised on 16 August 2021 by the Department of Mines, Industry Regulation and Safety inviting submissions from the public. No submissions were received in relation to this application.

**Methodology** DPLH (2021)

#### 4. References

- Austwide (2016) JSW Holdings Pty Ltd, ID 57896, Mining Proposal M80/630, Weero Road Shingle, Kununurra Kimberley Mineral Field Western Australia, (Version 2), Prepared by Austwide Mining Title Management Pty Ltd, August 2016.
- DMIRS (2021) Native Vegetation Clearing Permits, Types of Permits. Department of Mines, Industry Regulation and Safety. <https://www.dmp.wa.gov.au/Environment/Native-Vegetation-Clearing-4905.aspx#:~:text=Purpose%20permits%20are%20generally%20approved,purpose%20permits%20is%20the%20ame>. (Accessed 28 September 2021).
- DPLH (2021) Aboriginal Heritage Inquiry System. Department of Planning, Lands and Heritage. <https://espatial.dplh.wa.gov.au/AHIS/index.html?viewer=AHIS> (Accessed 28 September 2021).
- 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>
- 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:

<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.