



Clearing Permit Decision Report

1. Application details

1.1. Permit application details

Permit application No.: 8877/2
Permit type: Purpose Permit

1.2. Proponent details

Proponent's name: BHP Nickel West Pty Ltd

1.3. Property details

Property: Nickel (Agnew) Agreement Act 1974, Mineral Lease 255SA (AML 70/255); General Purpose Leases 36/49-51, 53/11-14; Mining Leases 36/4, 36/9, 36/78, 36/87, 36/102-103, 36/129-131, 36/155-156, 36/158-160, 36/183-185, 36/216-220, 36/230, 36/242-243, 36/246-247, 36/285-286, 36/288-291, 36/294, 36/306-307, 36/336, 36/389, 36/399, 36/409, 36/422, 36/439-440, 36/452-457, 36/467, 36/509-510, 36/517, 36/549, 36/618, 36/631, 36/658, 36/676-677, 53/56-57, 53/165-167, 53/187, 53/218, 53/243, 53/371, 53/410-411, 53/462-463, 53/466-467, 53/475, 53/483-489; Miscellaneous Licences 36/51-54, 36/56, 36/60, 36/67-81, 36/85-86, 36/88-91, 36/93-95, 36/97, 36/101-104, 36/109-110, 36/206, 36/240, 36/249, 53/31, 53/54, 53/56, 53/58, 53/63-65, 53/67, 53/76, 53/82, 53/109-110, 53/122-132

Local Government Area: Shire of Wiluna; Shire of Leonora
Colloquial name: Northern Operations Project

1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	For the purpose of:
6,000		Mechanical Removal	Mineral Exploration, Mineral Production and Associated Activities

1.5. Decision on application

Decision on Permit Application: Grant
Decision Date: 16 September 2021

2. Site Information

2.1. Existing environment and information

2.1.1. Description of the native vegetation under application

Vegetation Description The vegetation of the application area is broadly mapped as the following Beard vegetation associations:

18: Low woodland; mulga (*Acacia aneura*);
29: Low woodland; paperbark (*Melaleuca* sp.);
39: Shrublands; mulga scrub;
107: Hummock grasslands, shrub steppe; mulga and *Eucalyptus kingsmillii* over hard spinifex;
109: Hummock grasslands, shrub steppe; *Eucalyptus youngiana* over hard spinifex;
125: Bare areas; salt lakes;
202: Shrublands; mulga & *Acacia quadrimarginea* scrub;
204: Succulent steppe with open scrub; scattered mulga & *Acacia sclerosperma* over saltbush & bluebush; and
676: Succulent steppe; samphire (GIS Database).

BHP Nickel West Pty Ltd and its predecessor Western Mining have commissioned numerous flora and vegetation surveys over the local and regional area, including the application area, since the mid 1990's (BHP, 2020). The following vegetation associations have been recorded within the application area (BHP, 2020):

- Low woodland, open low woodland or sparse woodland; Mulga *Acacia aneura* and associated species;
- Salt lake, lagoon, clay pan;
- Saltbush and bluebush with scrub or open scrub; Mulga, other wattle *Atriplex* spp, *Maireana* spp. with *Acacia aneura* & other *Acacia* spp.;
- Samphire; *Tecticornia* spp. communities in saline areas;
- Scrub, open scrub or sparse scrub; Wattle, teatree & other species *Acacia* spp. *Melaleuca* spp.; and
- Shrub-steppe; Hummock grassland with scattered shrubs or mallee *Triodia* spp. *Acacia* spp., *Grevillea* spp. *Eucalyptus* spp.

Clearing Description Northern Operations Project.
BHP Nickel West Pty Ltd proposes to clear up to 6,000 hectares of native vegetation within a boundary of approximately 59,210.66 hectares, for the purpose of mineral exploration, mineral production and associated activities. The project is located adjacent to Leinster from 16 kilometres south-east of the town, to 100 kilometres north, within the Shires of Wiluna and Leonora.

Vegetation Condition	Pristine: No obvious signs of disturbance (Keighery, 1994); To: Completely Degraded: No longer intact; completely/almost completely without native species (Keighery, 1994).
Comment	The vegetation condition was derived from a consolidated vegetation survey collated by BHP (2020). Clearing permit CPS 8877/1 was granted by the Department of Mines, Industry Regulation and Safety on 22 October 2020 and was valid from 14 November 2020 to 30 September 2035. The permit authorised the clearing of up to 6,000 hectares of native vegetation within a boundary of approximately 59,210.66 hectares, for the purpose of mineral exploration, mineral production and associated activities. On 9 July 2021, the Permit Holder applied to amend CPS 8877/1 to add Miscellaneous Licence 36/249 to the permit and update the permit holder name. The amount of clearing authorised and the permit boundaries are to remain unchanged.

3. Assessment of application against Clearing Principles

Comments

The permit holder has applied to add Miscellaneous Licence 36/249 to the permit and update the permit holder name as per the Australian Securities and Investments Commission (ASIC) Certificate of Registration on Change of Name (the permit holder name is now BHP Nickel West Pty Ltd instead of BHP Billiton Nickel West Pty Ltd).

Miscellaneous Licence 36/249 is a 32.0 hectare tenement which lies wholly within the boundaries of State Agreement Act lease ML255SA and the existing approved permit boundary of CPS 8877/1 (BHP, 2021a). Adding Miscellaneous Licence 36/249 to the permit will allow a 66 kilovolt powerline to be constructed pursuant to the *Mining Act 1978* to connect a proposed solar photovoltaic farm to existing electrical infrastructure associated with the Leinster Nickel Operations (BHP, 2021b).

The amendment application is solely administrative and does not change the total area of clearing authorised or the permit boundary approved via clearing permit CPS 8877/1. Therefore, assessment of the proposed clearing against the clearing principles remains consistent with decision report CPS 8877/1.

Methodology BHP (2021a)
BHP (2021b)

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

Comments

There is one native title claim over the area under application (WC2011/007) (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 numerous 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 30 July 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

- BHP (2020) BHP Billiton Nickel West, Northern Operations, Strategic Native Vegetation Clearing Permit (NVCP) Application, Supporting Information, April 2020. BHP Billiton Nickel West, April, 2020.
- BHP (2021a) Application for an amendment to a clearing permit – Form C4. CPS 8877/1. July 2021.
- BHP (2021b) Mining Proposal: Solar PV Farm at Nickel West – Leinster Operations. Application Id: 97384. 28 May 2021. BHP Nickel West, May, 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 31 August 2021).
- 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:

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.