



Clearing Permit Decision Report

1 Application details and outcome

1.1. Permit application details

Permit number:	CPS 9179/2
Permit type:	Purpose permit
Applicant name:	Commissioner of Main Roads Western Australia (MRWA)
Application received:	29 April 2024
Application area:	15.67 hectares
Purpose of clearing:	Construction of the Albany Ring Road
Method of clearing:	Mechanical
Property:	Properties in Glendhow, Marbelup, Mount Elphinstone, Mount Melville & Robinson
Location (LGA area/s):	City of Albany

1.2. Description of clearing activities

This amendment is to vary the conditions of clearing permit CPS 9179/1. No amendment to the amount of clearing, or the clearing footprint authorised under CPS 9179/1 has been sought by Main Roads. Records indicate that 9.74 hectares of clearing has been conducted under CPS 9179/1, since the commencement of the permit in December 2021 (MRWA, 2024b).

1.3. Decision on application

Decision:	Granted
Decision date:	24 July 2024
Decision area:	15.67 hectares of native vegetation, as depicted in Section 1.5, below.

1.4. Reasons for decision

This clearing permit amendment application was submitted, accepted, assessed and determined in accordance with sections 51E and 51O of the *Environmental Protection Act 1986* (EP Act). The Department of Water and Environmental Regulation (the Department) advertised the application for seven days and four submissions were received. The consideration of matters raised in the public submissions is summarised in Appendix B.

On 1 December 2021, the Department granted CPS 9179/1 authorising the Permit Holder to clear 15.67 hectares of native vegetation within various properties in the localities of Glendhow, Marbelup, Mount Elphinstone, Mount Melville and Robinson, for the purpose of constructing stages 2 and 3b of the Albany Ring Road (ARR). It was determined that the proposed clearing area was at variance with clearing principles (a), (b) and (f). The applicant proposed avoidance, minimisation and mitigation actions as well as an adequate offset proportionate to the significance of environmental values being impacted. The offset calculations are available in Appendix E of CPS 9179/1 decision report.

Noting the construction of the project is expected to continue until the third quarter of 2024 and taking into account the expert advice received by DBCA and the fauna specialist, the applicant requested an amendment to Condition 9(g)(i), Condition 11(a), Condition 16 (c) and Condition 17 (a), previously imposed on clearing permit CPS 9179/1.

Condition 9(g) (i) The artificial black cockatoo nest hollow(s) required by condition 9(e) of this Permit must be installed at a location identified by the Department of Biodiversity, Conservation and Attractions within 20 kilometres of Albany.

Rationale: To comply with the condition 9(g)(i) of CPS 9179/1 and to support CPS 9179/2, the applicant commissioned a black cockatoo specialist to identify the most suitable locations to install the artificial hollows (MRWA, 2024c). A fauna specialist advised that installing hollows within 20 kilometres of Albany would not provide benefit to black cockatoos. The Applicant received further advice from the Department of Biodiversity, Conservation and Attractions (DBCA) confirming that installation of hollows beyond a 20-kilometre buffer would provide a better environmental outcome.

On 20 March 2023, the Department requested further comments from DBCA regarding the installation of artificial nest hollows beyond a 20-kilometre radius of Albany Ring Road. The expert advice received from DBCA indicates:

- there does not appear to be any confirmed records of Carnaby's Cockatoo nesting within 20 km of Albany, likely due to their primary nesting habitat being in wheatbelt eucalyptus species such as Wandoo and Salmon Gum. There are a few cock-a-tubes installed in the Torbay/Nullaki area with anecdotal reporting of white-tailed cockatoo nesting, however this has not been verified by departmental staff or the species of black cockatoo confirmed, as they may well be Baudin's Cockatoo if nesting is occurring. The Albany area is utilised by Carnaby's, Baudin's and forest red tailed black cockatoos primarily for foraging resources but may provide 'potential' breeding habitat.

DBCA recommends that artificial hollows be used in known nesting areas where there has been a decrease in the availability of natural nesting hollows. The installation of artificial hollows in built up and urbanised areas is not recommended and should not be undertaken. This is due to the increased risk in this area, including car strike to young inexperienced birds, attack by predators such as Australian ravens and pets, and in highly urbanised and cleared areas there may not be sufficient food resource for the adults to successfully raise chicks (DBCA (2023) Fauna Notes – Artificial hollows for black cockatoos)

- DBCA supports the installation of artificial nest hollows within the Shires of Cranbrook, Gnowangerup, Broomehill-Tambellup and Kojonup to mitigate impacts from the proposed clearing in Albany, as this will support conservation outcomes for Carnaby's. With regards to Carnaby's black cockatoo, the best location for the installation of artificial hollows is in wandoo / salmon habitat close to large areas of foraging habitat such as the Stirling Range National Park and the Shires mentioned above.

Condition 11(a) Within 24 months of commencing clearing authorised under this Permit, in consultation with the Department of Biodiversity, Conservation and Attractions, the Permit Holder must install a western ringtail possum (Pseudocheirus occidentalis) rope bridge within the area cross-hatched red in Figure 1(e) of Schedule 2 to allow the safe movement of western ringtail possum(s) (Pseudocheirus occidentalis) between remnants of native vegetation.

Rationale: The applicant has advised that the construction of the project is expected to be completed in the third quarter of 2024. Given the construction of the road will take almost three years and that the installation of the rope bridge can only occur after the road is built, it will not be possible to install the rope bridge within 24 months of clearing commencing.

Condition 16 (c) Within 24 months of the commencement of clearing authorised under this Permit and no later than 1 December 2026, the Permit Holder must: (i) give a conservation covenant issued under section 30B of the Soil and Land Conservation Act 1945, setting aside the revegetated and rehabilitated areas cross-hatched green in Figure 1(g) and Figure 1(h) of Schedule 2 for the protection and management of native vegetation in perpetuity; and (ii) provide to the CEO a copy of the executed conservation covenant.

Rationale: Given construction is still underway and the areas cross-hatched green in Figure 1(g) and Figure 1(h) of Schedule 2 of the permit CPS 9179/1 are still being used by the project (see Figure 2 and Figure 3), Main Roads has not been able to obtain a conservation covenant for these two areas.

Condition 17(a) Within 12 months of the commencement of clearing authorised under this Permit, the Permit Holder must submit a Project Rehabilitation Plan to the CEO for approval for the areas cross-hatched red in Figure 1(g) and Figure 1(h) of Schedule 2, which must be developed in accordance with A Guide to Preparing Revegetation Plans for Clearing Permits (Department, 2018).

Rationale: The applicant has advised that the construction of the project will take almost three years to complete. The areas cross-hatched in red within the permit's Figure 1(g) and Figure 1(h) will be rehabilitated once construction is completed, with the revegetation/rehabilitation of these areas not planned to commence until 2025. The Project Rehabilitation Plan is now being prepared, noting that if it were prepared too early, post-design/ during-construction amendments would not have been included.

The Applicant has further confirmed that extensive consultation has been undertaken regarding the entire project's revegetation strategy, and this will continue for years to come. A suitably qualified consultant has been engaged to prepare the Project Rehabilitation Plan.

No additional planning or other matters have arisen since the grant of CPS 9179/1 that are relevant in the context of the decision to approve the amendment.

The Delegated Officer determined that the proposed amendment to modify the permit conditions is not likely to lead to an unacceptable risk to environmental values and is justified for the reasons stated in the decision report.



Figure 1g: Map of the boundary of the area (cross-hatched red) within which rehabilitation must be undertaken.

Figure 1: Imagery on the left indicating road construction activities in progress in areas requiring revegetation and conservation covenant, as per CPS 9179/1, Figure 1(g)



Figure 1h: Map of the boundary of the area (cross-hatched red) within which rehabilitation must be undertaken.

Figure 2: Imagery on the left indicating road construction activities in progress in areas requiring revegetation and conservation covenant, as per CPS 9179/1, Figure 1(h)

1.5. Site map

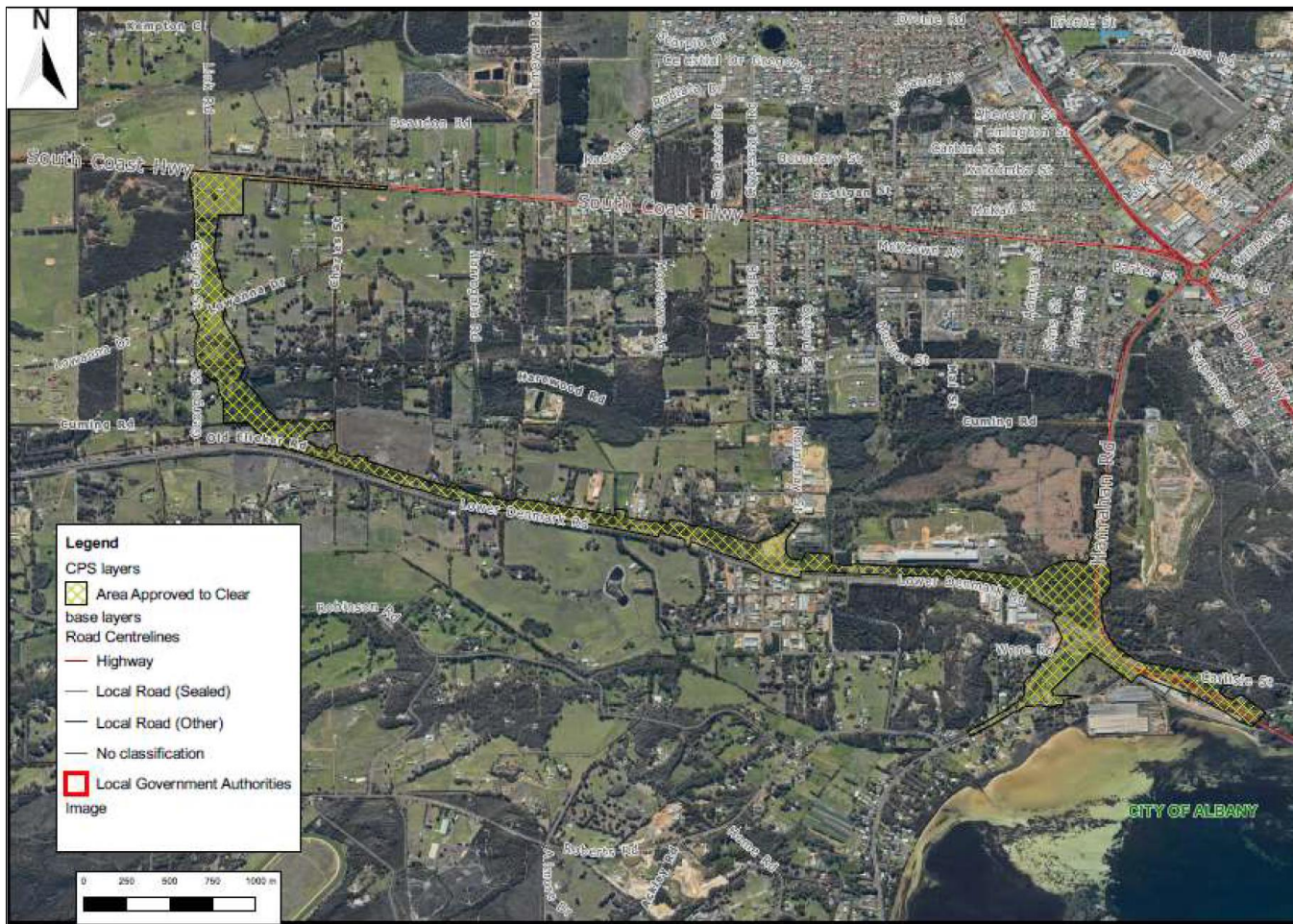


Figure 3 Map of the application area

The area cross-hatched yellow indicates the area authorised to be cleared under the granted clearing permit CPS 9179/1.

2 Legislative context

The clearing of native vegetation in Western Australia is regulated under the EP Act and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (Clearing Regulations).

In addition to the matters considered in accordance with section 51O of the EP Act (see Section 1.4), the Delegated Officer has also had regard to the objects and principles under section 4A of the EP Act, particularly:

- the precautionary principle
- the principle of intergenerational equity
- the polluter pays principle
- the principle of the conservation of biological diversity and ecological integrity.

Other legislation of relevance for this assessment include:

- *Biodiversity Conservation Act 2016* (WA) (BC Act)
- *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)
- *Planning and Development Act 2005* (WA) (P&D Act)

Relevant policies considered during the assessment include:

- *Environmental Offsets Policy* (2011)

The key guidance documents which inform this assessment are:

- *A guide to the assessment of applications to clear native vegetation* (DER, December 2013)

- *Procedure: Native vegetation clearing permits* (DWER, October 2019)
- *Environmental Offsets Guidelines* (August 2014)
- Technical guidance – *Flora and Vegetation Surveys for Environmental Impact Assessment* (EPA, 2016)
- Technical guidance – *Terrestrial Fauna Surveys for Environmental Impact Assessment* (EPA, 2016)

End

Appendix A. Additional information provided by applicant.

Summary of comments	Consideration of comment
Confirmation of total area cleared to date	Section 1.2

Appendix B. Details of public submissions

Summary of comments	Consideration of comment
Condition 9(g) - Artificial black cockatoo hollows installation Evidence of three successful breeding years within 15km of the ARR in 2021/22, 2022/23 and 2023/24 across 2 locations. Clarification requested regarding the change in the installation buffer from 20 kilometres to 100 kilometres	Addressed in section 1.4
Condition 11(a) - Rope bridges construction Clarification requested regarding the delay in the rope bridge construction	Addressed in section 1.4
Condition 16(c) – Conservation covenant duration Clarification requested regarding the delay in acquiring the covenant	Addressed in section 1.4
Condition 17(a) – Rehabilitation Plan Clarification requested regarding the delay in the submission of the rehabilitation plan	Addressed in section 1.4

Appendix H. Sources of information

H.1. GIS databases

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

- 10 Metre Contours (DPIRD-073)
- Aboriginal Heritage Places (DPLH-001)
- Cadastre (LGATE-218)
- Cadastre Address (LGATE-002)
- DBCA – Lands of Interest (DBCA-012)
- DBCA Legislated Lands and Waters (DBCA-011)
- Directory of Important Wetlands in Australia – Western Australia (DBCA-045)
- Environmentally Sensitive Areas (DWER-046)
- Groundwater Salinity Statewide (DWER-026)
- Hydrography – Inland Waters – Waterlines
- Hydrological Zones of Western Australia (DPIRD-069)
- IBRA Vegetation Statistics
- Imagery
- Local Planning Scheme – Zones and Reserves (DPLH-071)
- Native Title (ILUA) (LGATE-067)
- Offsets Register – Offsets (DWER-078)
- Pre-European Vegetation Statistics

- Public Drinking Water Source Areas (DWER-033)
- Ramsar Sites (DBCA-010)
- Regional Parks (DBCA-026)
- Remnant Vegetation, All Areas
- Soil Landscape Land Quality – Flood Risk (DPIRD-007)
- Soil Landscape Land Quality – Phosphorus Export Risk (DPIRD-010)
- Soil Landscape Land Quality – Subsurface Acidification Risk (DPIRD-011)
- Soil Landscape Land Quality – Water Erosion Risk (DPIRD-013)
- Soil Landscape Land Quality – Water Repellence Risk (DPIRD-014)
- Soil Landscape Land Quality – Waterlogging Risk (DPIRD-015)
- Soil Landscape Land Quality – Wind Erosion Risk (DPIRD-016)
- Soil Landscape Mapping – Best Available
- RIWI Act, Surface Water Areas and Irrigation Districts (DWER-037)
- RIWI Act, Groundwater Areas (DWER-034)

Restricted GIS Databases used:

- ICMS (Incident Complaints Management System) – Points and Polygons
- Threatened Flora (TPFL)
- Threatened Flora (WAHerb)
- Threatened Fauna
- Threatened Ecological Communities and Priority Ecological Communities

H.2. References

- Commissioner of Main Roads Western Australia (MRWA) (2021) *Clearing permit application CPS 9179/1*, received 12 January 2021 (DWER Ref: DWERVT7326~5).
- Commissioner of Main Roads Western Australia (MRWA) (2024) *Clearing permit application CPS 9179/2*, received 29 April 2024 (DWER Ref: DWERDT940559).
- Commissioner of Main Roads Western Australia (MRWA) (2024a) *Supporting information for clearing permit application CPS 9179/2* received 29 April 2024 (DWER Ref: DWERDT940559)
- Commissioner of Main Roads Western Australia (MRWA) (2024b) *Supporting information for clearing permit application CPS 9179/2* received 25 June 2024 (DWER Ref: DWERDT967950)
- Commissioner of Main Roads Western Australia (MRWA) (2024c) *Supporting information for clearing permit application CPS 9179/2* received 3 April 2023 (DWER Ref: A2206516)
- Department of Biodiversity, Conservation and Attractions (DBCA) (2020) *Species and Communities Branch fauna advice for clearing permit application CPS 9179/1*, received 3 April 2023. Department of Biodiversity, Conservation and Attractions, Western Australia (DWER Ref: A2206515).
- Department of Environment Regulation (DER) (2013). *A guide to the assessment of applications to clear native vegetation*. Perth. Available from: https://www.der.wa.gov.au/images/documents/your-environment/native-vegetation/Guidelines/Guide2_assessment_native_veg.pdf.
- Department of Water and Environmental Regulation (DWER) (2019). *Procedure: Native vegetation clearing permits*. Joondalup. Available from: https://dwer.wa.gov.au/sites/default/files/Procedure_Native_vegetation_clearing_permits_v1.PDF.
- Environmental Protection Authority (EPA) (2016). *Technical Guidance - Flora and Vegetation Surveys for Environmental Impact Assessment*. Available from: http://www.epa.wa.gov.au/sites/default/files/Policies_and_Guidance/EPA%20Technical%20Guidance%20-%20Flora%20and%20Vegetation%20survey_Dec13.pdf.
- Environmental Protection Authority (EPA) (2016). *Technical Guidance – Terrestrial Fauna Surveys*. Available from: https://www.epa.wa.gov.au/sites/default/files/Policies_and_Guidance/Tech%20guidance-%20Terrestrial%20Fauna%20Surveys-Dec-2016.pdf.
- Submission (2024) *Public submission in relation to clearing permit application CPS 9179/2*, received 28 May 2024 (DWER Ref: DWERDT955900).

Submission (2024a) *Public submission in relation to clearing permit application CPS 9179/2*, received 29 May 2024 (DWER Ref: DWERDT956134).

Submission (2024b) *Public submission in relation to clearing permit application CPS 9179/2*, received 28 May 2024 (DWER Ref: DWERDT956150).

Submission (2024c) *Public submission in relation to clearing permit application CPS 9179/2*, received 29 May 2024 (DWER Ref: DWERDT956155).