



Clearing Permit Decision Report

1. Application details and outcome

1.1. Permit application details

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| Permit number: | 9648/2 |
| Permit type: | Purpose Permit |
| Applicant name: | Regan Scott Grant |
| Application received: | 21 November 2022 |
| Application area: | 70 hectares |
| Purpose of clearing: | Gypsum extraction and associated activities |
| Method of clearing: | Mechanical Removal |
| Tenure: | Mining Lease 70/1382 Miscellaneous Licence 70/193 |
| Location (LGA area/s): | Shire of Lake Grace |
| Colloquial name: | Lake Lockhart Project |

1.2. Description of clearing activities

Regan Scott Grant proposes to clear up to 70 hectares of native vegetation within a boundary of approximately 79.1 hectares, for the purpose of gypsum extraction and associated activities. The project is located approximately 19 kilometres south of Newdegate, within the Shire of Lake Grace.

Clearing permit CPS 9648/1 was granted by the Department of Mines, Industry Regulation and Safety on 25 August 2022 and is valid from 17 September 2022 to 16 September 2027. The permit authorised the clearing of up to 70 hectares of native vegetation within a boundary of approximately 79.1 hectares, for the purpose of gypsum extraction and associated activities

On 21 November 2022, the Permit Holder applied to amend CPS 9648/1 to remove the fauna management condition from the clearing permit based on the survey results. The total area of clearing authorised and the permit boundary remains unchanged.

1.3. Decision on application and key considerations

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| Decision: | Grant |
| Decision date: | 9 March 2023 |
| Decision area: | 70 hectares of native vegetation |

1.4. Reasons for decision

This clearing permit application was made in accordance with section 51KA(1) of the *Environmental Protection Act 1986* (EP Act) and was received by the Department of Mines, Industry Regulation and Safety (DMIRS) on 21 November 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 including the results of a 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, 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 existing management conditions, only excluding the fauna management condition previously determined.

2. Assessment of application

2.1. Avoidance and mitigation measures

The applicant adequately demonstrated that all reasonable efforts had been taken to avoid and minimise potential impacts of the clearing on environmental values. Accendo (2022) advised that:

- the applicant undertook an assessment of the area prior to determining the suitability of the clearing footprint, and using a flora and vegetation survey, all identified priority flora and significant vegetation communities will be avoided during the clearing process (a 20 metre buffer to all conservation significant flora and vegetation will be demarcated); and
- clearing will be undertaken on an as needs basis and clearing areas will be progressively rehabilitated at the end of each mining season (November to April).

2.2. Assessment of impacts on environmental values

A recent targeted fauna survey has been provided in support of the amendment application, conducted by Bamford Consulting Ecologists in October 2022. The environmental values of the application area are well understood, and are described in previous version of the Decision Report, based on biological studies undertaken by Rick (2019) and the supporting document carried out by Accendo (2022). Similarly, the environmental impacts of the proposed clearing have been previously assessed and conditionally approved via clearing permit CPS 9648/1. The only modification was the exclusion of a fauna management condition requiring a pre-clearance survey for Malleefowl mounds based on a recent targeted fauna survey.

The proponent has applied to remove Condition 9 which requires conducting a pre-clearance survey for Malleefowl mounds during the breeding season, and to avoid clearing and apply a buffer of 50 meters of active mounds if identified.

The proponent commissioned a recent targeted fauna survey over the application area and no active or inactive Malleefowl mounds were identified (Bamford, 2022). In addition, the application area, mainly comprised of salt lake and a small portion of access track, is considered to have unsuitable habitat for this species as it does not support the construction of Malleefowl mounds (Bamford, 2022). Based on the results, the fauna condition is no longer necessary and, therefore, it is recommended its exclusion from the existing clearing permit.

Eight bird species were identified opportunistically during the fauna survey but none of them are classified as conservation significant fauna species under the *EPBC Act 1999* or *BC Act 2016* (Bamford, 2022).

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 clearing permit amendment application was advertised on 13 January 2023 by the Department of Mines, Industry Regulation and Safety inviting submissions from the public. No submissions were received in relation to this application.

There are several native title claims over the area under application (DPLH, 2023). These claim have been registered with the National Native Title Tribunal 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, 2023). 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. Site characteristics

A.1. Site characteristics

| Characteristic | Details |
|--|---|
| Local context | The application area is located approximately 21 kilometres south of Newdegate. The area proposed to be cleared is part of an expansive tract of native vegetation in the extensive land use zone of Western Australia. The site is surrounded in the immediate vicinity by vegetated reserves and salt lakes. The land use beyond the reserves is annual agriculture (GIS Database). |
| Ecological linkage & Conservation areas | According to available databases, the application area does not contain any known or mapped ecological linkages. The closest conservation area is the Lockhart Nature Reserve which is located approximately 300 metres west of the application area at its closest point. |
| Vegetation description | <p>The vegetation of the application area is broadly mapped as the following Beard vegetation associations:</p> <p>125: Bare areas; salt lakes; 511: Medium woodland; salmon gum & morrel; and 519: Shrublands; mallee scrub, <i>Eucalyptus eremophila</i> (GIS Database).</p> <p>A flora and vegetation survey was conducted over the application area by Anne Rick (Rick, 2019) on 22, 25 and 27 October 2018. The following vegetation associations were recorded within the application area (Rick, 2019):</p> <p>Mining Lease 70/1382 Tf – Samphire shrubland/forbland; and Te – Samphire shrubland.</p> <p>Miscellaneous Licence 70/193 Me – <i>Melaleuca</i> shrubland; and Sf – Shrubland/forbland.</p> |
| Vegetation condition | <p>The vegetation survey (Rick, 2019) indicate the vegetation within the proposed clearing area is in very good to excellent (Keighery, 1994) condition.</p> <p>The full Keighery (1994) condition rating scale is provided in Appendix B.</p> |
| Climate and landform | The application area is mapped with an elevation of 290 metres AHD. The annual average rainfall (Newdegate Research Station) is 366.4 millimetres (BoM, 2022). |
| Soil description & Land degradation risk | <p>The soils within the application are have been mapped as 250La_1sal and 250La_1sl. The soil mapped as 250La_1sal is described as soils that are mainly saline wet soils within minor grey duplex soils and calcareous loamy earth (access track) (DPIRD, 2022b). The soil mapped as 250La_1sl is described as large seasonally dry salt lakes within the Lagan 1 subsystem, consisting of saline and gypsiferous clay and silts (DPIRD, 2022b).</p> <p>The application area has a high risk of wind erosion (DPIRD, 2022a).</p> |
| Waterbodies & Hydrogeography | <p>The majority of the application area intersects Lake Lockhart (GIS Database).</p> <p>The application area is not within any public drinking water source areas. The mapped groundwater salinity is greater than 35,000 milligrams per litre total dissolved solids which is described as hypersaline (GIS Database).</p> |
| Flora | There are numerous records of Threatened and Priority flora species within the local area (20 kilometres), including the application area (Rick, 2019; GIS Database). |
| Ecological communities | There are no records of any Threatened or Priority Ecological Communities (TEC/PEC) within the application area (GIS Database). There is a known TEC in the local area. |
| Fauna | There are several records of any conservation significant fauna species within the local area (20 kilometre radius). |

Appendix B. Vegetation condition rating scale

Vegetation condition is a rating given to a defined area of vegetation to categorise and rank disturbance related to human activities. The rating refers to the degree of change in the vegetation structure, density and species present in relation to undisturbed vegetation of the same type. The degree of disturbance impacts upon the vegetation's ability to regenerate. Disturbance at a site can be a cumulative effect from a number of interacting disturbance types.

Considering its location, the scale below was used to measure the condition of the vegetation proposed to be cleared. This scale has been extracted from:

Keighery, B.J. (1994) *Bushland Plant Survey: A Guide to Plant Community Survey for the Community*. Wildflower Society of WA (Inc). Nedlands, Western Australia.

Measuring vegetation condition for the South West and Interzone Botanical Province (Keighery, 1994)

| Condition | Description |
|---------------------|--|
| Pristine | Pristine or nearly so, no obvious signs of disturbance. |
| Excellent | Vegetation structure intact, with disturbance affecting individual species; weeds are non-aggressive species. |
| Very good | Vegetation structure altered, with obvious signs of disturbance. For example, disturbance to vegetation structure caused by repeated fires, the presence of some more aggressive weeds, dieback, logging and/or grazing. |
| Good | Vegetation structure significantly altered by very obvious signs of multiple disturbances. Retains basic vegetation structure or ability to regenerate it. For example, disturbance to vegetation structure caused by very frequent fires, the presence of some very aggressive weeds at high density, partial clearing, dieback and/or grazing. |
| Degraded | Basic vegetation structure severely impacted by disturbance. Scope for regeneration but not to a state approaching good condition without intensive management. For example, disturbance to vegetation structure caused by very frequent fires, the presence of very aggressive weeds, partial clearing, dieback and/or grazing. |
| Completely degraded | The structure of the vegetation is no longer intact and the area is completely or almost completely without native species. These areas are often described as 'parkland cleared' with the flora comprising weed or crop species with isolated native trees or shrubs. |

Appendix C - References and databases

1. GIS datasets

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

- Aboriginal Heritage Places (DPLH-001)
- 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)
- Hydrographic Catchments – Catchments (DWER-028)
- Hydrography – Inland Waters – Waterlines
- Hydrography, Linear (DWER-031)
- IBRA Vegetation Statistics
- Regional Parks (DBCA-026)

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
- Threatened Ecological Communities and Priority Ecological Communities (Buffers)

2. References

- Accendo (2022) Clearing Permit Application – M70/1382 & L70/193 Lake Lockhart, Newdegate. Prepared for Regan Scott Grant, by Accendo Australia, March 2022.
- Bamford (2022) Malleefowl Survey – Lakeside Minerals. Report prepared for Lakeside Minerals by Bamford Consulting Ecologists, by Bamford Consulting Ecologists, October 2022.
- BoM (2022) Bureau of Meteorology Website – Climate Data Online, Newdegate Research Station. Bureau of Meteorology.
- Department of Planning, Lands and Heritage (DPLH) (2023) Aboriginal Heritage Inquiry System. Department of Planning, Lands and Heritage. <https://espatial.dplh.wa.gov.au/AHIS/index.html?viewer=AHIS> (Accessed 20 February 2023).
- Department of Primary Industries and Regional Development (DPIRD) (2022a) Advice received in relation to Clearing Permit Application CPS 9648/1. Office of the Commissioner of Soil and Land Conservation, Department of Primary Industries and Regional Development, Western Australia, April 2022.
- Department of Primary Industries and Regional Development (DPIRD) (2022b) NRInfo Digital Mapping. Department of Primary Industries and Regional Development. Government of Western Australia. URL: <https://maps.agric.wa.gov.au/nrm-info/> (Accessed 13 June 2022).
- Department of Water and Environmental Regulation (DWER) (2021) Procedure: Native vegetation clearing permits. Joondalup. Available from: https://dwer.wa.gov.au/sites/default/files/Procedure_Native_vegetation_clearing_permits_v1.pdf CPS 9648/1 Page 11 <http://www.bom.gov.au/climate/data/> (Accessed 13 June 2022).
- Rick, A (2019) Lake Lockhart – Proposed Gypsum Mine M70/1382 – Vegetation and Flora survey. Report prepared by Anne (Coates) Rick, March 2019.

3. Glossary

Acronyms:

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|-----------------|---|
| 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.