

s22

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**From:** s22  
**Sent:** Thursday, 22 February 2018 9:36 AM  
**To:** s22  
**Subject:** FW: Invitation to comment on Referral - (EPBC 2018/8138) Clearing and sand extraction, Lot 3 Buller Road, Waroona, WA [SEC=UNCLASSIFIED]  
**Attachments:** Department of Water and Environmental Regulation - 21.2.18 - EPBC 2018\_8138\_DWERDG114\_18 - Invitation to comment on referral - Clearing and sand extraction, Lot 3 Buller Road, Waroona.pdf

s22  
Project Assessments West Section  
Department of the Environment and Energy  
Phone: s22  
Email: s22

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**From:** s47F  
**Sent:** Wednesday, 21 February 2018 6:20 PM  
**To:** s22  
**Cc:** EPBC Referrals <EPBC.Referrals@environment.gov.au>; s47F  
s47F  
s47F  
**Subject:** RE: Invitation to comment on Referral - (EPBC 2018/8138) Clearing and sand extraction, Lot 3 Buller Road, Waroona, WA

Hi s22

Resending this to you with the attachment (24 pages).

Regards,

s47F  
Office of the Director General

Department of Water and Environmental Regulation  
E: s47F | [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)  
T: s47F

Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA)

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**From:** s47F  
**Sent:** Wednesday, 21 February 2018 2:54 PM  
**To:** s22  
**Cc:** 'EPBC.Referrals@environment.gov.au' <[EPBC.Referrals@environment.gov.au](mailto:EPBC.Referrals@environment.gov.au)>; s47F  
s47F  
s47F  
**Subject:** RE: Invitation to comment on Referral - (EPBC 2018/8138) Clearing and sand extraction, Lot 3 Buller Road, Waroona, WA [SEC=UNCLASSIFIED]

Hi s22

Please find attached a letter from the s47F  
relating to the above.

Regards,

s47F

Office of the Director General

Department of Water and Environmental Regulation

E: s47F | [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

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**From:** EPBC Referrals [<mailto:EPBC.Referrals@environment.gov.au>]

**Sent:** Monday, 12 February 2018 1:27 PM

**To:** Registrar <[registrar@dwer.wa.gov.au](mailto:registrar@dwer.wa.gov.au)>

**Cc:** s47F EPBC Referrals  
<[EPBC.Referrals@environment.gov.au](mailto:EPBC.Referrals@environment.gov.au)>

**Subject:** Invitation to comment on Referral - (EPBC 2018/8138) Clearing and sand extraction, Lot 3 Buller Road, Waroona, WA [SEC=UNCLASSIFIED]

Good afternoon

We are sending you the attached link to a referral received for consideration under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for your comments, as it falls within your area of interest:  
<http://epbcnotices.environment.gov.au/invitations/>

Formal notification of this referral is also **attached** to this email.

Any comment should be sent by 26 February 2018 via:

by letter s22  
Director  
Project Assessments West Section  
Assessments & Post Approvals Branch  
Department of the Environment and Energy  
GPO Box 787  
CANBERRA ACT 2601

by email s22

Regards

Referrals Gateway  
Governance and Business Support Section

Disclaimer: This e-mail is confidential to the addressee and is the view of the writer, not necessarily that of the Department of Water and Environmental Regulation, which accepts no responsibility for the contents. If you are not the addressee, please notify the Department by return e-mail and delete the message from your system; you must not disclose or use the information contained in this email in any way. No warranty is made that this material is free from computer viruses.



Your ref: 2018/8138  
Our ref: DWERA 00032; DWERDG114/18  
Enquiries: **s47F**  
Email: **s47F**

**s22**

Director  
Project Assessments West Section  
Assessments & Post Approvals Branch  
Department of the Environment and Energy  
GPO Box 787  
CANBERRA ACT 2601

Dear **s22**

**CLEARING AND SAND EXTRACTION, LOT 3 BULLER ROAD,  
WAROONA, WESTERN AUSTRALIA (EPBC 2018/8138)**

I refer to the advice of 12 February 2018 informing me of the above action referred to the Commonwealth Minister for the Environment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

On 5 January 2018, the Department of Water and Environmental Regulation (DWER) refused to grant a clearing permit over the area which is the subject of this referral (DWER Reference: CPS 7516/1). Whilst section 1.14 of the referral states that a "Clearing permit is currently being sought from the Western Australian Department of Environment Regulation", it should be noted that this refers to the assessment of CPS 7516/1 which has been concluded with the refusal. I advise that the DWER is not in receipt of any additional clearing permit applications from AMG (WA) Pty Ltd. The refusal of CPS 7516/1 has been appealed by AMG (WA) Pty Ltd and that appeal is yet to be determined.

It is noted that AMG (WA) Pty Ltd's referral (Section 2.4.1) lists the perceived impacts of this project to be the clearing of 14 hectares of foraging habitat for Baudin's cockatoo (*Calyptorhynchus baudinii*), Carnaby's cockatoo (*Calyptorhynchus latirostris*) and forest red-tailed black cockatoo (*Calyptorhynchus banksii naso*). The Department's assessment of clearing permit application CPS 7516/1 determined that the application area also contained suitable breeding habitat for black cockatoos, with the identification of 104 potential breeding trees including 17 trees with hollows that could be suitable nesting sites for black cockatoos.



The Department's assessment also identified that the application area may contain vegetation synonymous with the 'Banksia Woodlands of the Swan Coastal Plain' (Banksia woodlands) ecological community'. This determination was based on findings from a site inspection conducted by the DWER officers, flora surveys and advice from the Department of Biodiversity, Conservation and Attractions. The two flora and vegetation surveys conducted over the application area were undertaken prior to the *Environmental Protection and Biodiversity Conservation Act 1999* listing of this Threatened Ecological Community (TEC) in September 2016. Due to the timing of the surveys they did not check the site against the description, size and condition thresholds outlined in the approved conservation advice. It is noted however that your Department's mapping of this TEC includes the area subject to this referral and that this area contains three of the key diagnostic *Banksia* species, being; *Banksia attenuata*, *Banksia menziesii* and *Banksia ilicifolia*.

For your information, I have attached a copy of the DWER's Clearing Decision Report which provides more detail on the assessment of CPS 7516/1.

If you require further information, please contact s47F on s47F  
s47F

Yours sincerely

**s47F**

21 February 2018

Att.



# Clearing Permit Decision Report

## 1. Application details

### 1.1. Permit application details

Permit application No.: 7516/1  
Permit type: Area Permit

### 1.2. Applicant details

Applicant's name: AMG (WA) Pty Ltd

### 1.3. Property details

Property: LOT 3 ON DIAGRAM 35920, WAROONA  
Local Government: WAROONA, SHIRE OF  
Authority:  
DER Region: Greater Swan  
DPaW District: SWAN COASTAL  
Localities: WAROONA

### 1.4. Application

Clearing Area (ha)	No. Trees	Method of Clearing	For the purpose of:
14		Mechanical Removal	Extractive industry

### 1.5. Decision on application

Decision on Permit Application: Refusal

Decision Date: 5 January 2018

Reason for Decision: The clearing permit application received on 13 March 2017 has been assessed against the clearing principles, planning instruments and other matters in accordance with s51O of the *Environmental Protection Act 1986*. It has been concluded that the proposed clearing is at variance to clearing principles (a), (b), (e) and (h), may be at variance to principles (d), (f), (g) and (i) and is not likely to be at variance to the remaining clearing principles.

The Delegated Officer determined that the proposed clearing will result in the loss of 14 hectares (Area 1 and Area 2) of vegetation that; contains high biodiversity, significant habitat for fauna, including foraging and potential breeding habitat for black cockatoos, forms part of a regionally significant ecological linkage and is a significant remnant in a highly cleared area.

The Delegated Officer determined that the significant residual impacts associated with Area 1 (3.25 hectare) could be counterbalanced with an appropriate offset. In regards to Area 2 (10.75 hectares) it was determined that an offset was not appropriate to counterbalance the significant environmental impacts identified.

In letters dated 29 September 2017 and 26 October 2017 the applicant was afforded the opportunity to modify the application to allow the Delegated Officer to progress towards a grant of Area 1, subject to a suitable offset proposal. No formal response, requesting to modify the application was received, however, in a meeting on 16 November 2017 the applicant confirmed that he did not intend to amend the application or provide a revised offset proposal for Area 1 and requested that a determination be made in relation to the full area applied for.

The Delegated Officer had regard to the environmental values of the native vegetation outlined under principles (a) to (j), and planning instruments and other relevant matters outlined in this report, in making the decision on this application.

These matters were taken into consideration by the Delegated Officer in the decision to refuse to grant a clearing permit.



## 2. Site Information

### 2.1. Existing environment and information

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

Vegetation Description	Clearing Description	Vegetation Condition	Comment
<p>The application area has been mapped as the following Swan Coastal Plain Vegetation Complex:</p> <p><b>Southern River Complex</b> is described as Open Woodland: Open woodland of <i>Corymbia calophylla</i> (marri) - <i>Eucalyptus marginata</i> (jarrah) - banksia species with fringing woodland of <i>Eucalyptus rudis</i> (flooded gum) - <i>Melaleuca raphiophylla</i> (swamp paperbark) along creek beds (Government of Western Australia, 2017).</p>	<p>The applicant proposes to clear 14 hectares of native vegetation within Lot 3 on Diagram 35920, Waroona for the purpose of sand extraction.</p>	<p>Very Good; Vegetation structure altered; obvious signs of disturbance (Keighery, 1994).</p> <p>To</p> <p>Degraded; Structure severely disturbed; regeneration to good condition requires intensive management (Keighery, 1994).</p>	<p>The vegetation description and condition was determined from a site visit conducted by Department of Water and Environmental Regulation (DWER) on 6 July 2017 and from flora surveys conducted by MBS Environmental and Woodman Environmental.</p> <p>In determining the vegetation description and condition, regard was had to the January 2016 fires that impacted the application area. To ensure the vegetation's ability to regenerate is acknowledged in condition ratings, where a natural disturbance event has occurred, consideration is also given to the vegetation's regenerative capacity and environmental values of the site which have the ability to return with time without intervention.</p> <p>The application area (as depicted in Figure 1) has been divided into two areas based on differences in vegetation condition and composition.</p> <p>Area 1 – (approximately 3.25 hectares, southern portion): The vegetation within this area is in a degraded (Keighery, 1994) condition (DWER, 2017a) and is likely to regenerate to at least good (Keighery, 1994) condition. The overstorey comprises of <i>Banksia attenuata</i> (both dead and epicormics growth evident) over an understorey dominated by <i>Stirlingia latifolia</i> (DWER, 2017a) (Figure 2).</p> <p>Area 2 (approximately 10.75 hectares, northern portion): The vegetation within this area is in very good (Keighery, 1994) condition (DWER, 2017a). This area contains vegetation that is consistent with the description of the Southern River Complex and is on trajectory to be back to its pre-fire condition (DWER, 2017a) (Figure 3).</p>





Figure 1: Map of Application Area



Figure 2: Map of Area 1



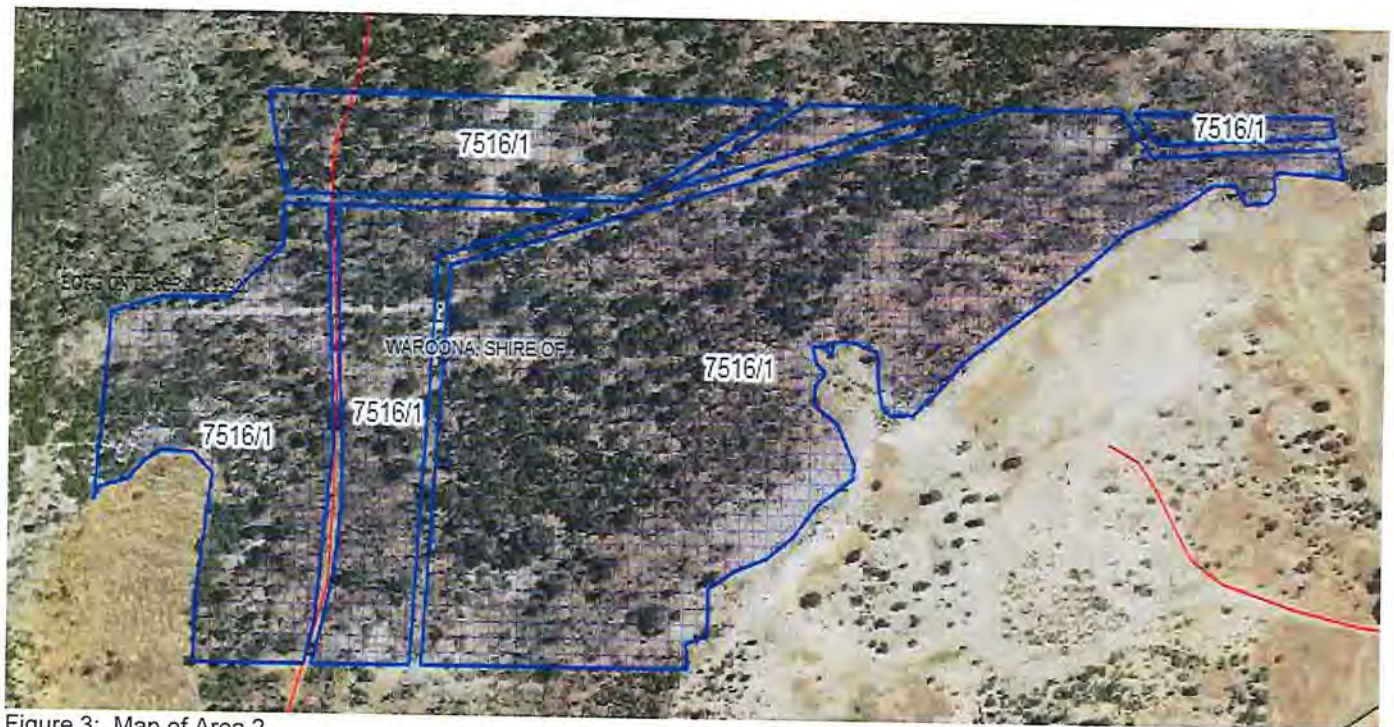


Figure 3: Map of Area 2

### 3. Background

#### General Introduction

In 13 March 2017, AMG (WA) Pty Ltd submitted an application to clear native vegetation under the *Environmental Protection Act 1986* (EP Act) in accordance with the bilateral agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) (reference: EPBC 2017/7916) relating to environmental assessment. In an email of 22 December 2017 the Department of Environment and Energy (DotEE) advised that the proponent had withdrawn EPBC 2017/7916 from assessment and approval under the EPBC Act. An email was received from the applicant's consultant on 4 January 2017 confirming that the applicant requested that DWER's assessment be undertaken in accordance with s510 of the EP Act only and that assessment under the EPBC Act would be pursued separately.

AMG (WA) Pty Ltd propose to clear 14 hectares of native vegetation within 'Jackson Block' at Lot 3 on Diagram 35920, Waroona for the purpose of sand extraction. Lot 3 is located approximately eight kilometres west of the town of Waroona, Western Australia.

This clearing permit application is a joint venture between AMG (WA) Pty Ltd and Pandanus Park Aboriginal Corporation. Pandanus Park Aboriginal Corporation advised that they have a joint sand operation on the Pandanus Park Aboriginal Community (Kimberley Region) with AMG (WA) Pty Ltd, however it is not operational yet. The community is seeking training in the sand extraction operation through this project. It is advised that the community needs the sand extraction operation to be successful for the financial future of the community (Pandanus Park Aboriginal Corporation, 2017).

The applicant has obtained letters of support for the project from:

- Minister for Indigenous Affairs
- Peel Development Commission
- Ms Josie Farrer – Member for the Kimberley
- Department of Aboriginal Affairs
- Minister for Employment, Women and Assisting the Prime Minister for the Public Service
- Department of Training and Workforce Development

Lot 3 is a 218 hectare property and Jackson Block covers approximately 36.8 hectares in the south east corner.

The property is freehold land and is owned by Stanley, Susan, Garry and Rosalind Meek. On 8 May 2015 AMG (WA) Pty Ltd entered into a ten year lease over Lot 3.

Sand is proposed to be extracted using an excavator and loader. Clearing is proposed to be undertaken in a staged approach, with each stage comprising of seven hectares (Accendo, 2017a). Extraction is to be undertaken progressively in two stages in a south to north direction. The two stages are to proceed sequentially with land stabilisation works commencing upon the completion of each stage (Accendo, 2017a).

MBS Environmental (2015) identified two vegetation units within the application area, one covering the majority of the remnant vegetation and another covering a small section of fringing wetland in the northwest corner of



the survey area.

The dominant Vegetation Unit 1 is described as 'Low woodland of *Corymbia calophylla*, *Eucalyptus marginata*, *Banksia* spp. and *Allocasuarina fraseriana* over a low open shrubland dominated by *Hibbertia hypericoides* over a grassland of native and introduced species on very low relief sand dunes'.

The minor Vegetation Unit 2 is described as 'Thicket of *Kunzea ericifolia*, *Melaleuca preissiana* and *Melaleuca raphiophylla*, over open low shrubland of *Astartea scoparia* and *Adenanthos meisneri* over bare ground in lower ground associated with a sumpland'.

In January 2016 the application area was burnt during the Waroona fires. Since January 2016 officers from DWER (and its predecessor agency the Department of Environment Regulation (DER)) have visited the application area twice, once on 11 March 2016 and again on 6 July 2017. It was reported that the application area was regenerating, with evidence of understory species coppicing from underground root structures and re-sprouting. Epicormic growth was evident in a number of jarrah, marri, banksia and allocasuarina trees and it is expected that Area 2 of the application area will continue to regenerate back to its pre-fire condition if left undisturbed. Some of the application area is impacted by dieback which may reduce the ability for it to regenerate successfully without intensive management.

**Methodology**   References  
Accendo (2017a)  
MBS Environmental (2015)  
Pandanus Park Aboriginal Corporation (2017)

## **Public consultation**

### **Comments**

The application was advertised online on 20 June 2017 for a 21 day submission period. A publication summary was advertised in *The West Australian* on Monday 26 June 2017.

On 5 July 2017, a public submission was received which questioned whether it was necessary to mine 14 hectares of land to obtain sand when there is already approximately 250,000,000 tonnes available at the Alcoa alumina refinery at Wagerup ready for use (Submission, 2017).

This submission was referred to the applicant's consultant on 17 July 2017 requesting that a response be prepared. On 28 July 2017, a response was received from the applicant's consultant stating that Alcoa had been contacted and that it was advised that the residue sand from the refinery in Wagerup has a potentially hazardous chemical composition and is therefore not considered a suitable alternative to sand for residential developments (Accendo, 2017b).

The applicant further advised that the sand resource within the subject site will almost wholly be used as a construction material (i.e. fill, concrete and building sand) for residential developments in nearby localities. The then Department of Mines and Petroleum (DMP) identified a shortage of building materials between Perth and Busselton. A dependable supply of these materials is crucial for construction and building involved with development (Accendo, 2017b).

Transporting these materials from distant sources increases costs for housing and all developments (Accendo, 2017b). The DMP and Shire of Waroona have specifically identified the subject site as being located within a 'regionally significant basic raw materials' area (Accendo, 2017b).

**Methodology**   References:  
Accendo (2017b)  
Submission (2017)

## **Avoidance, mitigation and offset**

### **Avoidance and Mitigation**

Supporting information provided with the clearing permit application notes that the proponent has endeavoured to avoid any vegetation in association with a wetland of conservation significance. Accordingly, the application area does not contain any wetland vegetation (Accendo, 2017a).

The following mitigation measures are proposed by the applicant's consultant (Accendo, 2017a):

The management objectives for vegetation and flora are:

- Restrict vegetation clearing to a practical minimum;
- Prevent unauthorised clearing of native vegetation outside of the clearing footprint;
- Ensure vegetation clearing is undertaken in an appropriate manner to maximise success of later rehabilitation activities; and
- Minimise disturbance to remaining vegetation to retain health and integrity.

Management actions to minimise disturbance to vegetation include:

- Undertake clearing in two discrete stages to minimise potential impacts associated with erosion;
- Plan clearing such that it does not result in the creation of isolated remnants of native vegetation that have no ecological corridors to allow fauna movement to adjacent areas;
- Peg/flag areas to be cleared to avoid any unnecessary disturbance to adjacent vegetation not approved to be disturbed;
- Create strategic firebreaks where necessary; and
- Restrict vehicle movement to designated access tracks, to prevent vegetation damage and erosion.

### Offset

The applicant identified the following significant residual environmental impacts associated with the proposed clearing:

- Clearing 14 hectares of vegetation associated with under-represented vegetation associations/complexes (i.e. Beard vegetation association 1000 and Southern River Complex); and
- Clearing 14 hectares of black cockatoo foraging and potential breeding habitat.

To counterbalance the above impacts the applicant proposed an offsets package that consists of:

- Placing a conservation covenant over 106 hectares of non-secure remnant native vegetation; and
- Revegetation of two hectares within a conservation significant wetland.

The Delegated Officer considers that the impacts associated with clearing of Area 2 are not able to be appropriately offset. Area 1 is considered to have the following significant residual impacts:

- 30 potential future nesting trees, seven with hollows that could be suitable as a nesting site for black-cockatoos;
- 3.25 ha of black cockatoo foraging habitat;
- 3.25 ha of high biodiversity vegetation in at least good (Keighery, 1994) condition; and
- 3.25 ha of a significant remnant in a highly cleared landscape.

DWER has undertaken a preliminary offset calculation using the Commonwealth DotEE's Offset Assessment Guide for the proposed clearing of Area 1. The calculation addresses the impacts to black cockatoo foraging and breeding habitat, biodiversity values and significance as a remnant. The minimum acceptable land acquisition offset in this instance would be approximately 19.4 hectares of Lot 3 in a very good (Keighery, 1994) condition.

On 29 September 2017, a letter was sent to the applicant's consultant outlining the significant residual impacts associated with the proposed clearing (broken down into Area 1 and Area 2). The letter further advised that the impacts associated with Area 1 could be counterbalanced by a suitable offset proposal. The letter requested the provision of written approval from the landowners for the applicant to use part of Lot 3 as an offset. A response was invited within 30 days of the date of the letter.

On 10 October 2017 an email was received from the applicant's consultant requesting a meeting to discuss the preliminary assessment report. On 13 October 2017 an email was received from the applicant requesting an extension of time to provide a response to DWER's letter. On 16 October 2017 an email was received from the applicant's representative advising that a meeting and extension are no longer required and requested that DWER finalise their assessment.

On 26 October 2017, a letter was sent directly to the applicant extending an opportunity to provide information that would enable DWER to progress towards the grant of a permit for Area 1. On 26 October 2017, an email was received from the applicant raising a number of perceived concerns with the assessment process, however formal advice regarding how to progress with the application was not provided.

During a meeting on 16 November 2017, the applicant confirmed that the desired approach with respect to the ongoing assessment was for DWER to make a determination on the full application area and that no revised offset proposal would be submitted to allow consideration of the granting of Area 1. This discussion was summarised and recorded in an email to the applicant dated 20 November 2017.



## Other relevant matters

The following information has been included at the request of the applicant.

In an email dated 3 August 2017, the applicant provided the following information in relation to the importance of this project to the Pandanus Park Aboriginal Community and the issues that the community is facing:

- "A majority of the community are reliant on Centrelink payments as no opportunity for employment is on offer. When applying for a job the constant knockback's is depressing for the person applying. This is why we have to create our own opportunity for our peoples future";
- "The suicide is from depression from the lack of opportunities for aboriginal people. We as a community are trying to resolve this by creating opportunities for our people. The government don't realise this is What is creating suicide amongst indigenous people";
- "The other fact is people are dealing in drugs to create an income to survive instead it's destroying our people. The drugs and alcohol will not be tolerated in our community. We have evicted people who have taken this line within our community. The fact is that people are not surviving on Centrelink payments we need opportunities to survive";
- "Our community has no activities for children as with no funding is available even for an oval. The children need education with computers within the community to help them achieve their education. At the moment the community does not have the funding to provide this for our children. We also need funding for a teacher to teach up to grade four within our community. At the moment the children have to be up at 6 AM and return from school by bus after 5 PM these children are as young as 4/5 years of age. Then quite often they fall asleep on the bus and end up back in Derby and get home late at night";
- "If the government are trying to close the gap amongst aboriginal People they need to create employment, education and funding. We have taken the initiative to try and achieve a financial self-sufficient community. With this to be achievable we need government support moving forward to create our own financially self sufficient community. This is by the way of supporting projects and opportunities we put forward to better our community and people and youth";
- "Without opportunities for the communities The standard of living in communities will rapidly decline. The suicide rate Will increase in years moving forward without these opportunities. The communities are slowly loosing their assets due to financial hardship. This is making us more reliant on government agencies for financial support to survive. In turn living on Centrelink and paying rental on our own assets is also financially crippling our people"; and
- "If the government was serious about employment and closing the gap amongst Aboriginal people, The government would support opportunities like you have before you to show we can be self-sufficient financially. We cannot survive on the current system without support we can see our community is going backwards. Examples are as follows-

Domestic violence  
Drugs  
Suicide  
Unemployment Centrelink reliant  
Alcohol  
No future for our youth  
Mental health

*This project is giving our people the opportunity to better ourselves and community and create a future for our people and children moving forward".*

(AMG (WA) Pty Ltd, 2017a)

In an email dated 28 June 2017, the applicant's consultant advised:

*"Mine manager also once again training (Patricia Riley) as a mine manager for the operation as well as occupational health and safety. This will give Pat the skills to operate the community operation. The community operation requires funding as roads need to be constructed at approximately \$1000000 for operational. This project is a joint venture and income will also be generated into the community. This funding will benefit in the way of oval, basketball court, solar power, swings and BBQ area for the youth and community members a store in the community rather than purchasing from the roadhouse. The store will also generate employment for members within the community. This should also benefit the current suicide rate as the community will be self sufficient (employment, income). Then also construct a road to current approved sand mine or moxie the product to lay down area with in the community. Without Waroona none of this can occur due to government reliance on incomes and lack of practical experience.*

1 x bulldozer (D8 ) for clearing and operator for clearing plus operator (when approved ) ( sub contractor ). 2 days approximately \$12000

2x loaders for sand extraction ( which 1 will be trained from the community (Pandanus Park ) and employed in the operation . Then this person when capable will be moved back to the community to operate a loader in the community . The community has no loader practical experience and this will give practical experience. Then another trainee will then have the opportunity to be trained and employed and rotate with other members. Then when capable two operators for the loaders in the community will operate BOTH machines at Waroona. These operators will need to return home in turn several trainees will be trained so can return to family and the land (cultural reasons). Loaders approximately for 2 x \$600000 plus operators wages. Excavator for the white sand in the operation to remove white sand which is a valuable resource. This will be as required excavator will stay onsite. (\$100000) moxie ( \$ 300000)

Operational drivers in our trucks and semi for delivery of product sold directly for delivery from the operation. 1 x will be trained from Pandanus for local delivery such as delivery for asphalt providers who use sand in their blending. This will grow in time pending on market.

Office workers for noting quantity being removed from site and weight of weigh bridge. Training in the weights and measures to each truck as weights vary and the legality of this importance from truck to truck . The invoicing at the end of the month costings of the running of the operation ect. Testing as per mine site each morning alcohol testing for all Personal as per all mining operations.

Chlorine pool as to not remove dieback from site which the operator's will be responsible for. This was a requirement from DER on our prior application due to the severely infected area.

Rental or purchase of a waroona house to accommodate community members. Purchasing groceries, fuel , hardware from local businesses in Waroona.

Consultation of neighbours being Mike Warmly and James from premium all sands both written letters on our behalf.

Please also note that my son and Grandchildren are indigenous and are owners in this project also in our family trust . This is why Senator Patrick Dodson can not write a support letter due to family ties to my son and grandchildren. They are also traditional owners from the Kimberley but due to health issues with my grandsons have to stay in Perth. As he is constantly at Princess Margaret Hospital for specialist appointments and monitoring. My son will also be working within this operation.

There is also opportunity for community members to work at cloudbreak and Solomon mines once experienced. This is through family operations on these sites but experienced operators are required. Once again this is the importance of the Waroona operation".

(AMG (WA) Pty Ltd, 2017b)

The applicant has obtained letters of support for the project from numerous parties (as identified in the background section above).

#### 4. Assessment of application against clearing principles

##### (a) Native vegetation should not be cleared if it comprises a high level of biological diversity.

###### Comments

###### Proposed clearing is at variance to this Principle

The previous 20.8 hectare application area for CPS 6620/1 overlaps the current application area. The applicant's representative advised that the same flora and fauna reports were to be used for the assessment of this application as were provided to support the previous application. As the current application area overlaps the previous application area and as the same flora and fauna reports have been used, the following assessment has similarities to the assessment of CPS 6620/1.

A Level 1 Flora and Vegetation survey of approximately 36.8 hectares of the 218 hectares of Lot 3 was undertaken in May 2015 by MBS Environmental (2015) identified the vegetation under application as 'Low Woodland of *Corymbia calophylla*, *Eucalyptus marginata*, *Banksia* spp. and *Allocasuarina fraseriana* over a low open shrubland dominated by *Hibbertia hypericoides* over a grassland of native and introduced species on very low relief sand dunes'. This report indicates that the application area is in good to very good (Keighery, 1994) condition (MBS Environmental, 2015).

A Level 2 Flora and Vegetation Assessment was undertaken in September 2015 by Woodman Environmental. This assessment covered an area of approximately 218 hectares which included the application area. The assessment identified the vegetation under application as 'Mid open woodland to open forest of *Allocasuarina fraseriana*, *Eucalyptus marginata* and *Corymbia calophylla* over low open woodland to woodland dominated by *Banksia attenuata*, *Banksia grandis* and *Banksia ilicifolia* over mid sparse to open shrubland dominated by



*Xanthorrhoea preissii* over low to mid sparse shrubland to shrubland dominated by *Hibbertia hypericoides* over low sparse to open forbland dominated by *Dasyogon bromeliifolius* and *Desmocladius flexuosus* on grey sand on lower to upper slopes and flats'. This report indicates that the application area is in good (Keighery, 1994) condition (Woodman Environmental, 2015).

In January 2016, the application area was burnt during the Waroona fires. Vegetation communities have the ability to regenerate following natural disturbance events such as fire and with time the environmental values of the application area are likely to return.

On 11 March 2016, former DER officers inspected the application area post-fire and reported that the area was regenerating with evidence of understory species coppicing from underground root structures and re-sprouting. Epicormic growth was evident in a number of jarrah, marri and allocasuarina trees.

On 16 September 2016, the Commonwealth DoEE listed *Banksia Woodlands of the Swan Coastal Plain* ecological community as endangered under the EPBC Act.

On 6 July 2017, DWER officers inspected the current application area and noted that the application area was continuing to regenerate well, with areas of abundant jarrah and banksia regrowth observed. The application area has been divided into two areas based on differences in vegetation condition and composition and indicative regenerative capacity.

Area 1 (approximately 3.25 hectares) is the southern portion of the application area (see Figure 2). The vegetation within this area is in a degraded (Keighery, 1994) condition (DWER, 2017a) and is likely to regenerate to at least good (Keighery, 1994) condition. The vegetation in Area 1 comprises of *Banksia attenuata* (both dead and epicormics growth evident) over an understory dominated by *Stirlingia latifolia* (DWER, 2017a).

Area 2 (approximately 10.75 hectares) is the northern portion of the application area (see Figure 3). The vegetation within this area is in a very good (Keighery, 1994) condition (DWER, 2017a). This area comprises of vegetation that is consistent with the description of the Southern River Complex and is on trajectory to be back to its pre-fire condition of very good to excellent (Keighery, 1994) condition (DWER, 2017a).

There is also a small area in the north east of Area 2 which was observed to be in the worst condition post-fire. The overstorey in this area is dominated by jarrah and woody pear, however it contains very little native understory and numerous weeds were observed in this area including; *\*Phytolacca octandra* (red ink plant), *\*Zantedeschia aethiopica* (arum lily), *\*Hypochoeris glabra* (smooth catsear), *\*Solanum nigrum* (blackberry nightshade), *\*Arctotheca calendula* (cape weed), *\*Lotus sp.* and *\*Cynodon dactylon* (couch) (DWER, 2017a).

A Level 1 Flora and Vegetation Survey of approximately 36.8 hectares of Lot 3 (Jackson Block) was undertaken in May 2015 by MBS Environmental. This survey consisted of a desktop assessment and reconnaissance site survey. This survey identified 83 vascular plant taxa, including 17 introduced taxa. MSB Environmental (2015) advised that this number is likely to be an underestimate due to the timing of the survey. The timing of MBS Environmental's survey was identified as a major constraint in identifying many conservation significant taxa, especially orchid taxa.

In recognition of this constraint Woodman Environmental were commissioned to undertake a spring flora survey. The Level 2 spring survey was conducted in September 2015 and consisted of a desktop assessment, a reconnaissance survey followed by a detailed field survey. This assessment covered an area of approximately 218 hectares and identified a total of 192 discrete vascular flora taxa, including 144 native taxa (Woodman Environmental, 2015). Sixteen quadrats were established over the 218 hectare survey area, two of which appear to occur just within the northern and southern boundary of the application area. Transect data indicates that the most intensive survey work was conducted west of the power lines outside of the application area. Transect data shows that limited ground was covered within the application area and was mainly limited to firebreaks and minor deviations off the firebreaks.

The combined results of the two above mentioned flora surveys recorded a total of 152 native species within the study area (Woodman Environmental, 2015).

GIS datasets indicate that 25 priority flora species have been recorded within the local area (10 kilometre radius).

Woodman Environmental's survey was undertaken from 22 to 25 September 2015. The survey was conducted at an appropriate time, as the majority of the taxa in this region would have been in flower.

Woodman Environmental (2015) identified one significant flora taxa in the study area, being; *Acacia semitrullata* (Priority 4). A total of 11 individuals of *Acacia semitrullata* were recorded at five point locations within the study area (Woodman Environmental, 2015). None of these individuals were recorded within the application area. No other rare or priority flora were recorded within the current application area.

No priority ecological communities have been mapped over the application area. Woodman Environmental has classified the vegetation under application as Vegetation Type 1 (VT1). VT1 corresponds to vegetation

generally consisting of *Allocasuarina fraseriana*, *Eucalyptus marginata* and *Corymbia calophylla* woodland over banksia woodland over taxon-rich shrubland on variable landforms from upper slopes to flats (Woodman Environmental, 2015). This vegetation type has similarities to SCP21c, which is listed as a priority 3 ecological community. Despite these similarities, Woodman Environmental (2015) concluded that this vegetation type more closely resembles SCP21a.

As outlined in the assessment at principle (d), the mapping of the Banksia Woodlands threatened ecological community (TEC) includes the application area.

As outlined in the assessment at principle (b), the application area contains foraging and breeding habitat for black cockatoos. Area 1 comprises of 3.25 hectares of foraging habitat for black cockatoos and approximately 30 potential future nesting trees, seven with hollows that could be suitable as a nesting site for black cockatoos. Area 2 comprises 10.75 hectares of foraging habitat and 74 potential future nesting trees, 10 with hollows that could be suitable as a nesting site for black cockatoos. Both Area 1 and Area 2 may also contain habitat for southern brush-tailed phascogale and quenda.

Glevan Consulting (2015) conducted an assessment of a 36.8 hectare area (the study area) of Lot 3 (including the application area) for the presence of phytophthora dieback. This assessment identified that 13.6 hectares of the study area was infected with phytophthora dieback. The January 2016 fire would have removed the dead and dying vegetation, which was affected by dieback. The fire may have the effect of hastening the progress to a post-epidemic assemblage of non-susceptible native plants and weeds (Parks and Wildlife, 2016). The uninfested areas are expected to recover normally from the effects of fire (Parks and Wildlife, 2016). The fire reduced visible disease expression, which will remain permanently muted in older parts of the infestation where the disease has already reached an endemic equilibrium, meanwhile a visible epidemic will eventually become obvious again in areas that had only been recently infested. The fire will not affect disease progression or the final impact of the disease (Parks and Wildlife, 2016).

Area 2 comprises high biodiversity, significant habitat for fauna, including vegetation in a good to very good (Keighery, 1994) condition, forms part of a significant ecological linkage and may comprise a TEC. Area 1 also comprises significant habitat for fauna and forms part of a significant ecological linkage, however the vegetation contains lower levels of biological diversity due to the impacts of dieback and general edge effects associated with the cleared land on either side. Therefore, the proposed clearing is at variance to this Principle.

#### Methodology

##### References:

DWER (2017a)  
MBS Environmental (2015)  
Molloy et al. (2009)  
Parks and Wildlife (2007-)  
Parks and Wildlife (2016)  
Woodman Environmental (2015)

##### GIS Datasets:

Sac Bio Datasets – accessed June 2017

#### **(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 indigenous to Western Australia.**

#### Comments

##### **Proposed clearing is at variance to this Principle**

Six terrestrial fauna species listed as specially protected under the *Wildlife Conservation Act 1950* (WC Act) have been recorded within the local area, being; Baudin's cockatoo (*Calyptorhynchus baudinii*), Carnaby's cockatoo (*Calyptorhynchus latirostris*), forest red-tailed black cockatoo (*Calyptorhynchus baudinii*), chuditch (*Dasyurus geoffroii*), numbat (*Myrmecobius fasciatus*) and southern brush-tailed phascogale (*Phascogale tapoatafa* subsp. *tapoatafa*) (DBCA, 2007-).

A fauna survey conducted by Terrestrial Ecosystems in May 2015 identified three broad fauna habitat types in the 36.8 hectare area surveyed (Jackson Block), being:

- *E. marginata*, *C. calophylla*, *A. fraseriana* and *Banksia* sp. woodland over sparsely vegetated shrubs over grasses and herbs on grey sands;
- Large cleared sections of native vegetation that were previously used for sand extraction on the eastern side and a disused mining area in the south-west corner that abuts regrowth vegetation in the power line corridor; and
- A small section west of the central point that comprises dense shrubs on white sands that extends to the track that runs north-south through the project area.

Carnaby's cockatoo is listed as endangered and Baudin's cockatoo and forest red-tailed cockatoo are listed as vulnerable under the EPBC Act. Black cockatoos breed in large hollow-bearing trees, generally within woodlands or forests or in isolated trees (Commonwealth of Australia, 2012). These species nest in hollows in live or dead trees of karri, marri, wandoo, tuart, salmon gum, jarrah, flooded gum, York gum, powder bark, bullich and blackbutt (Commonwealth of Australia, 2012).



Black cockatoos have a preference for foraging habitat that includes jarrah and marri woodlands and forest heathland and woodland dominated by proteaceous plant species such as *Banksia* sp., *Hakea* sp. and *Grevillea* sp. (Commonwealth of Australia, 2012). Clearing of feeding habitat on the Swan Coastal Plain poses a significant threat to the long term survival of Carnaby's cockatoos (Shah, 2006).

During the latest site inspection on 6 July 2017 no black cockatoo foraging evidence was observed (DWER, 2017a). The lack of foraging evidence may be due to the January 2016 fires, however evidence of the ability of banksias to germinate post fire was observed during the site inspection. As outlined in Principle (a), Area 1 comprises of 3.25 hectares of foraging habitat for black cockatoos and approximately 30 potential future nesting trees, seven with hollows that could be suitable as a nesting site for black cockatoos. Area 2 comprises of 10.75 hectares of foraging habitat for black cockatoos, in a better condition and with more of the preferred foraging species than Area 1 and 74 potential future nesting trees, 10 with hollows that could be suitable as a nesting site for black cockatoos.

Cumulative impacts of the loss of banksia woodlands on the swan coastal plain restrict the availability of food sources for black cockatoos. Noting the application area has been mapped within a 12 kilometre buffer of a known breeding site, contains numerous potential breeding trees, has historic evidence of foraging use and is in close proximity to wetlands, the application area is considered to be significant habitat for black cockatoos. Area 1 however, comprises a lower foraging habitat value, given the vegetation structure and condition, than Area 2.

The Chuditch is listed as vulnerable under the EPBC Act. Chuditch are now only present in approximately five per cent of their pre-European range. Most chuditch are now found in varying densities throughout the jarrah forest and south coast of Western Australia. Chuditch use a range of habitats including forest, mallee shrublands, woodland and desert. The densest populations have been found in riparian jarrah forest (DEC, 2012a). Terrestrial Ecosystems (2015) notes that there is a low possibility that chuditch could be in the remnant vegetation in low number. Given this species preference for riparian jarrah forest it is unlikely that the application area provides significant habitat for this species.

The numbat is also listed as vulnerable under the EPBC Act. Numbats build nests in hollow logs or trees, or dig burrows. Only two isolated populations of this species remains at Dryandra and Perup in the southwest of Western Australia, approximately 160 kilometres apart (DotE, 2014). Given the numbats habitat preference, the proposed clearing is not likely to impact upon habitat for this species.

The southern brush-tailed phascogale is a small arboreal dasyurid. In south west Western Australia they have been observed in dry sclerophyll forests and open woodlands that contain hollow bearing trees. Habitat clearing, fragmentation, and alteration by logging and mining are the greatest threats to this species (DEC, 2012b). Terrestrial Ecosystems (2015) report that the size of the remnant patch of vegetation is large enough to sustain a population of brush-tailed phascogale and some of the habitat is suitable. The brush-tailed phascogale were identified in the vicinity of the project area, but were not caught during fauna surveys at the nearby mineral sand project (Terrestrial Ecosystems, 2015).

Potential quenda (*Isoodon obesulus fusciventer*) diggings (conical shape hole) were observed during the fauna survey (Terrestrial Ecosystems, 2015). The quenda is listed as a Priority 5 species under the WC Act. This species inhabits scrubby, often swampy, vegetation with dense cover up to one metre high, often feeds in adjacent forest and woodland that is burnt on a regular basis and in areas of pasture and cropland laying close to dense cover. Populations inhabiting jarrah and wandoo forests are usually associated with watercourses (DEC, 2012c).

Although, potential diggings were identified, Terrestrial Ecosystems (2015) advise that none were observed where it was obvious that a pointed nose had created a cone shape depression in the leaf litter or surface soils, which is a distinguishing feature of quenda diggings. The open understorey and presence of foxes in the project area would ensure numbers are maintained at a low level if they were present (Terrestrial Ecosystems, 2015).

The South West Regional Ecological Linkage (SWREL) report (Molloy et al., 2009) defines an ecological linkage as "A series of (both contiguous and non-contiguous) patches which, by virtue of their proximity to each other, act as stepping stones of habitat facilitate the maintenance of ecological processes and the movement of organisms within, and across, a landscape". Axis lines in the SWREL Report are used to identify patches of remnant vegetation with high connectivity or linkage value; the emphasis for biodiversity planning and conservation becomes the protection and management of the patches identified using the linkage axis lines, rather than within the area defined by the line itself.

Remnant vegetation within the SWREL boundary can be assigned a 'proximity analysis' group. A patch of vegetation with an edge touching or less than 100 metres from a linkage (axis line) is assigned to proximity analysis group 1(a) which is the highest category group. A SWREL axis line is mapped approximately 250 metres west of Area 2 and 320 metres west of Area 1.

There is native vegetation contiguous from the mapped SWREL linkage to Buller Nature Reserve (240 metres south), Myalup State Forest (8.8 hectares west) and Hamel State forest (7.3 kilometres east) (Molloy et al., 2009). Given the application area is located within this contiguous native vegetation, the application area falls within proximity analysis group 1(a) as the patch of vegetation which it is part of has an edge touching the

linkage.

The application area forms part of this ecological linkage and assists in the maintenance of the ecological process of conservation reserves within the local area. This value of Area 2 is heightened by the high quality fauna habitat value that assists in the maintenance of these species within the connected reserves. Area 1 has cleared land on either side, with approximately 80 metres cleared directly west between the contiguous native vegetation and Area 1. Given the cleared land and lower quality fauna habitat, the proposed clearing of Area 1 will still impact the linkage, however the impacts are not likely to be as significant as the proposed clearing of Area 2.

The application area contains significant habitat for black cockatoos, potential habitat for brush-tailed phascogale and quenda, and forms part of a significant ecological linkage. Therefore, the proposed clearing is at variance to this Principle.

#### Methodology

##### References:

Commonwealth of Australia (2012)  
DBCA (2007-)  
DEC (2012b)  
DEC (2012c)  
DotE (2014)  
DWER (2017a)  
Molloy et al. (2009)  
Shah (2006)  
Terrestrial Ecosystems (2015)

##### GIS Datasets:

Sac Bio Datasets – accessed June 2017

#### (c) Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, rare flora.

#### Comments

##### **Proposed clearing is not likely to be at variance to this Principle**

Four rare flora species have been recorded in the local area, being; *Caladenia huegelii*, *Drakaea micrantha*, *Diuris purdiei* and *Synaphea stenoloba*.

The closest mapped rare flora species is *Caladenia huegelii* which has been recorded within approximately 1.5 kilometres of the application area within Buller Nature Reserve.

*Caladenia huegelii* occurs in areas of mixed woodland of jarrah (*Eucalyptus marginata*), candlestick banksia (*B. attenuata*), holly banksia (*B. ilicifolia*) and firewood banksia (*B. menziesii*) with scattered sheoak (*Allocasuarina fraseriana*) and marri (*Corymbia calophylla*) over dense shrubs of blue boy (*Stirlingia latifolia*), Swan River myrtle (*Hypocalymma robustum*), yellow buttercups (*Hibbertia hypericoides*), buttercups (*H. subvaginata*), balga (*Xanthorrhoea preissii*), coastal jug flower (*Adenanthos cuneatus*) and *Conostylis* species (DEC, 2009). Throughout its range the species tends to favour areas of dense undergrowth. Soil is usually deep grey-white sand usually associated with the Bassendean sand-dune system (DEC, 2009).

*Drakaea micrantha* is usually found in cleared fire breaks or open sandy patches that have been disturbed, and where competition from other plants has been removed (Brown et al., 1998). *Drakaea micrantha* occurs in infertile grey sands, in banksia, jarrah (*Eucalyptus marginata*) and common sheoak (*Allocasuarina fraseriana*) woodland or forest. Suitable habitat for this species is located within the application area.

*Diuris purdiei* grows in sand to sandy clay soil amongst scattered shrub in areas subject to winter inundation (Brown et al., 1998). Suitable habitat for this species is likely to occur in the north west corner of the application area which is adjacent to mapped wetlands.

*Synaphea stenoloba* occurs on loamy soils in low lying areas that are occasionally inundated. Associated vegetation is generally swampy heath to one metre high (DotEE, 2017). Suitable habitat for this species is likely to occur in the north west corner of the application area which is adjacent to mapped wetlands.

Woodman Environmental was commissioned by the applicant to undertake a spring flora survey of the whole of Lot 3. Woodman Environmental's assessment was undertaken from 22 to 25 September 2015. This visit was conducted at the most appropriate time to survey in the Swan Coastal Plain Bioregion, as the majority of the taxa in this region are in flower at this time (Woodman Environmental, 2015).

In addition to the four species listed above, a desktop assessment and literature review undertaken by Woodman Environmental (2015) identified an additional four rare flora species which may occur within the application area, being; *Diuris micrantha*, *Drakaea elastica*, *Eleocharis keigheryi* and *Synaphea* sp. Fairbridge Farm.

Woodman Environmental (2015) conducted an initial reconnaissance visit on 2 September 2015 with the main purpose being a targeted search for *Drakaea elastica*. All areas of appropriate habitat, particularly grey sand



areas adjacent to winter-wet areas, and thickets of *Kunzea glabrescens* (Spearwood), were inspected via wandering transects (Woodman Environmental, 2015). The most appropriate time to survey for this species is July/August when the orchids leaves are most evident. Woodman Environmental provided advice that the leaves should still have been present in early September. The targeted search for this species did not record this species.

Woodman Environmental (2015) set up 16 quadrats within the survey area, two of which occur just within the northern and southern boundary of the application area. It is noted that in addition to searches conducted around and between quadrats, specific, targeted searching for significant flora taxa in the survey area was undertaken.

No rare flora was recorded within the application area or within the larger survey area.

Given the above, the proposed clearing is not likely to be at variance to this Principle.

**Methodology**

**References:**

Brown et al. (1998)  
DEC (2009)  
DotEE (2017)  
Woodman Environmental (2015)

**GIS Datasets:**

Sac Bio Datasets – accessed June 2017

**(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.**

**Comments**

**Proposed clearing may be at variance to this Principle**

According to available datasets, the application area is mapped as the 'Banksia Woodlands of the Swan Coastal Plain' (Banksia woodlands) ecological community listed as Priority 3 by Department of Biodiversity, Conservation and Attractions (DBCA). This community is listed as an endangered TEC under the EPBC Act.

The Banksia Woodlands ecological community is restricted to areas in and immediately adjacent to the Swan Coastal Plain Interim Biogeographic Regionalisation of Australia (IBRA) bioregion, including the Dandaragan plateau. This coastal plain stretches from around Jurien Bay in the north, to Dunsborough in the south (DotEE, 2016).

This ecological community has undergone a decline of about 60 per cent in its original extent and almost all of the ecological community that remains, occurs as highly fragmented patches less than 10 hectares in size (DotEE, 2016).

This ecological community has a dominant *Banksia* component, which includes at least one of four key species—*Banksia attenuata* (candlestick banksia), *B. menziesii* (firewood banksia), *B. prionotes* (acorn banksia) and/or *B. ilicifolia* (holly-leaved banksia) (DotEE, 2016).

The ecological community provides habitat for many native plants and animals that rely on *Banksia* Woodlands for their homes and food. Remaining patches of the ecological community provide important wildlife corridors and refuges in a mostly fragmented landscape (DotEE, 2016).

The DotEE mapping of this ecological community includes the application area. The application area forms part of a larger remnant of 218 hectares (Lot 3 Buller Road) and is linked by contiguous vegetation to Buller Nature Reserve which is a remnant of approximately 301 hectares. The majority of the vegetation in this combined 518 hectare remnant is predominately in good (Keighery, 1994) or better condition and is the largest remnant in the local area.

The two flora and vegetation surveys conducted over the application area were undertaken prior to the EPBC listing of this ecological community in September 2016. To determine if a particular site aligns with this TEC the approved conservation advice states that it is necessary to check the site against the description, size and condition thresholds. Due to the timing of the surveys this was not undertaken and no additional survey information or analysis, against the approved conservation advice, of the previous survey findings have been provided by the applicant.

The Level 1 Flora and Vegetation Survey conducted by MBS Environmental (2015) identified the dominant vegetation unit within the application area to be 'Low Woodland of *Corymbia calophylla*, *Eucalyptus marginata*, *Banksia* spp. and *Allocasuarina fraseriana* over a Low Open Shrubland dominated by *Hibbertia hypericoides* over Grassland of native and introduced species on very low relief sand dunes'. The *Banksia* species found in this vegetation unit includes the diagnostic species; *Banksia attenuata*, *Banksia menziesii* and *Banksia ilicifolia* (DBCA, 2017).

The Level 2 Flora and Vegetation Survey conducted by Woodman Environmental (2015) described the vegetation as *Allocasuarina fraseriana*, *Eucalyptus marginata* and *Corymbia calophylla* woodland over *Banksia*

woodland over taxon-rich shrubland on variable landforms from upperslopes to flats.

Woodman Environmental (2015) stated that this vegetation type does appear to be related to and have similarities to SCP21c 'Low lying *Banksia attenuata* woodlands or shrublands', however the description of the SCP21 subgroups provided in the floristic survey of the SCP (Gibson *et al* 1994) indicates that this vegetation type more closely resembles SCP21a 'Central *Banksia attenuata*, *Eucalyptus marginata* woodland' than SCP21c (DBCA, 2017). Both SCP21a and SCP21c are listed in the approved conservation advice as floristic community types with relationships to the Banksia Woodlands ecological community.

The conservation advice for this TEC states that; these Banksia woodland community types are fire prone habitats that include species with a range of life history traits that allow them to persist in this fire prone environment (through resilience to survive fires as well as species that are killed by fire but then germinate after fire).

The conservation advice states that the greatest threat to the Banksia woodland TEC is clearing and fragmentation (associated with mining), invasive species and fire regimes. Therefore the proposed clearing has potential for local scale impacts on the remaining Banksia woodland TEC with regard to impacts of clearing and increased fragmentation (DBCA, 2017).

From the site inspection reports compiled by DWER and DER officers, vegetation surveys, condition mapping and quadrat data provided by the two consultants the vegetation in Area 2 appears to meet several of the key diagnostic characteristics of the Banksia Woodland TEC. Noting Area 1 also contains *Banksia attenuata* in a degraded (Keighery 1994) condition, the vegetation is likely to form part of the TEC or its buffer and will still contribute to the overall function of the ecological community.

To accurately determine the extent of this TEC impacted by the proposed clearing, the vegetation that may represent this TEC must be considered and assessed against the key diagnostic factors (DBCA, 2017).

Given the above, the proposed clearing may be at variance to this Principle.

#### Methodology

##### References:

DBCA (2017)

DotEE (2016)

MBS Environmental (2015)

Woodman Environmental (2015)

##### GIS Datasets:

Sac Bio Datasets – accessed June 2017

#### (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.

#### Comments

##### **Proposed clearing is at variance to this Principle**

The application area is located within the Swan Coastal Plain IBRA bioregion. This bioregion has approximately 38.5 per cent of its pre-European vegetation extent remaining (Government of Western Australia, 2016).

The application area is also mapped as Swan Coastal Plain Southern River complex which retains approximately 18 per cent pre-European extent (Government of Western Australia, 2017).

The application area is located within the Shire of Waroona, within which there is approximately 53 per cent pre-European extent remaining (Government of Western Australia, 2016).

The local area (ten kilometre radius) retains approximately 15 per cent native vegetation.

The national objectives and targets for biodiversity conservation in Australia have a target to prevent clearance of ecological communities with an extent below 30 per cent of that present pre-1750, below which species loss appears to accelerate exponentially at an ecosystem level (Commonwealth of Australia, 2001). Given the local area and the Southern River complex retain less than the recommended 30 per cent threshold, the application area is located within an area that has been extensively cleared.

As outlined in Principles (a) and (b), Area 2 comprises high biodiversity values, significant habitat for black cockatoos and functions as a significant SWREL and refuge. Area 2 may also be representative of a TEC. Area 1 also comprises significant habitat for black cockatoos, however the vegetation is less significant due to it being more degraded and not containing the same level of biodiversity or connectivity value. Therefore the application area in entirety is considered to be a significant remnant.

Given the above, the proposed clearing is at variance to this Principle.



	Pre-European (ha)	Current Extent (ha)	Remaining (%)	Extent in DBCA lands (%)
<b>IBRA Bioregion</b>				
Swan Coastal Plain	1,501,222	578,432	38.5	37.8
<b>Shire</b>				
Shire of Waroona	83,233	44,395	53	79
<b>Vegetation Complex – Swan Coastal Plain*</b>				
Southern River Complex	58,781	10,838	18.4	1.6

**Methodology**

**References:**

Commonwealth of Australia (2001)  
 Government of Western Australia (2016)  
 \*Government of Western Australia (2017)  
 Molloy et al. (2009)  
 Parks and Wildlife (2015a)

GIS Databases  
 Pre-European vegetation  
 NLWRA, Current Extent of Native Vegetation

**(f) Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.**

**Comments**

**Proposed clearing may be at variance to this Principle**

No wetlands or watercourses are located within the application area. However, the application area is directly adjacent to a wetland area (not assessed) and areas of Lot 3 Buller Road outside of the application area comprise of wetland areas including resource enhancement category, conservation category and multiple use wetlands.

Conservation category wetlands support a high level of ecological attributes and functions. The objective for these wetlands is preservation of wetland attributes and functions through various mechanisms (Water and Rivers Commission, 2001).

Resource enhanced category wetlands are considered priority wetlands which may have been partially modified but still retain substantial ecological attributes and functions. The ultimate objective is for management, restoration and protection towards improving their conservation value (Water and Rivers Commission, 2001).

Multiple use category wetlands are wetlands with few important ecological attributes and functions remaining. Use, development and management should be considered in the context of ecologically sustainable development and best management practice catchment planning through landcare (Water and Rivers Commission, 2001).

The wetland areas closest to the application area are:

- UFI 5004 multiple use sumpland (seasonally inundated basin) – 20 metres north west of Area 2 and 200 metres north west of Area 1.
- UFI 4807 conservation category sumpland – 200 metres west of Area 2 and 310 metres north west of Area 1.
- UFI 4636 conservation category sumpland – 419 metres west of Area 2 and 560 metres north west of Area 1.

Surrounding these three wetlands is an area of sumpland (UFIs 4801 and 4646) that has been mapped but not evaluated into a management category (i.e. Not Assessed). The former Department of Parks and Wildlife advised that it is not clear whether the wetland areas are part of one larger sumpland system or are discrete wetlands, however the proximity of the wetland areas may indicate hydrological connectivity (Parks and Wildlife, 2015b).

Multiple use wetland UFI 5004 is located approximately 20 metres north of Area 2 and the vegetation condition within the eastern section of the wetland has been described as very good to good (Keighery, 1994) by MBS Environmental (2015) and as good by Woodman Environmental (2015). The vegetation condition of wetland



UFI 5004 suggests that the wetland area may be commensurate with conservation category, however the management category cannot be confirmed with the information provided (Parks and Wildlife, 2015b).

The vegetation and flora survey conducted by MBS Environmental (2015) identified one vegetation unit associated with sumplands (UFIs 4801 and 4646). This vegetation unit is described as 'Thicket of *Kunzea ericifolia*, *Melaleuca preissiana* and *Melaleuca raphiophylla*, over open low shrubland of *Asteria scoparia* and *Adenanthos meisneri* over bare ground in lower ground associated with a sumpland' (MBS Environmental, 2015). This vegetation unit covered approximately 0.5 hectares of the surveyed area. This sumpland area has been omitted from the application area, however some vegetation within this mapped unit may still be located within the application area. *Kunzea* sp. was observed within the application area during the site inspection conducted by DWER officers of 6 July 2017 (DWER, 2017a).

A small depression to the east of the mapped wetland was observed during the site inspection to contain *Melaleuca preissiana* and *Kunzea* sp. (DWER, 2017a).

In regards to a similar assessment for a previous clearing permit application (CPS 6620/1), which overlaps the current application area, the applicants previous consultant submitted the following advice:

- While the proposed clearing is adjacent to a buffer area around a wetland it is not considered that the proposed clearing may be at variance to this principle as the proposed clearing avoids the wetland buffer area and given the sand extraction batter required for safety this will ensure no impact to the wetland area; and
- Sand extraction will not be conducted within two metres of the water table.

This advice is acknowledged. However, given the proximity of the mapped wetland and DWER's site inspection findings it is considered that Area 2 may contain vegetation growing in association with a wetland. Given the distance between Area 1 and the mapped wetlands, the proposed clearing of Area 1 is not considered to be at variance to this Principle.

Given the above the proposed clearing may be at variance to this Principle.

**Methodology**

**References:**

- DWER (2017a)
- Parks and Wildlife (2015b)
- Water and Rivers Commission (2001)
- Woodman Environmental (2015)

- GIS Databases
- Hydrography, linear
- Geomorphic Wetlands (Mgt Categories), Swan Coastal Plain

**(g) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation.**

**Comments**

**Proposed clearing may be at variance to this Principle**

The application area has been mapped by the former Department of Agriculture and Food Western Australia (DAFWA) (now Department of Primary Industries and Regional Development) (Department of Agriculture and Food 2017) as the Bassendean B1 Phase, which is described as 'Extremely low to very low relief dunes, undulating sandplain and discrete sand rises with deep bleached grey sands sometimes with a pale yellow B horizon or a weak iron-organic hardpan at depths generally greater than two metres; *Banksia* dominant' (Schoknecht et al., 2004).

Land Degradation Risk Category	Bassendean B1 Phase
Water Erosion	3-10% of map unit has a high to extreme water erosion risk
Wind Erosion	>70% of the map unit has a high to extreme wind erosion risk
Waterlogging	3-10% of map unit has a moderate to very high waterlogging risk
Flooding	<3% of the map unit has a moderate to high flood risk
Salinity Risk	30-50% of map unit has a moderate to high salinity risk or is presently saline

Based on the DAFWA mapped land degradation risk outlined above, the application area has a relatively low likelihood of water erosion, waterlogging and flooding (Schoknecht et al., 2004).

DAFWA mapping indicates that greater than 70 per cent of the above mentioned soils system has a high to extreme wind erosion risk (highest risk rating out of six risk categories). Given the sandy nature of the soils and



mapped land degradation risk, the proposed clearing may lead to appreciable land degradation through wind erosion.

The proposed clearing may be at variance to this Principle.

In relation to a previous clearing permit application (CPS 6620/1), which overlaps the current area, the applicants previous consultant advised that as part of any extractive industry licence, management of dust and potential erosion is a requirement and management plans are/will be developed to manage this potential impact.

Noting the applicant's advice regarding management plans it is considered that land degradation associated with the proposed land use may be able to be managed through the implementation of appropriate management strategies (i.e. bituminising roads and hardstands, staged clearing followed by rehabilitation and retaining vegetated buffers).

**Methodology**   References:  
Schoknecht et al. (2004)

GIS Databases  
Land Degradation datasets

**(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.**

**Comments**       **Proposed clearing is at variance to this Principle**  
The application area is located approximately 240 metres north west of Buller Nature Reserve. Myalup State Forest is located approximately 8.8 kilometres west and Hamel State Forest is located approximately 7.3 kilometres east.

As discussed in Principles (a) and (b) an ecological linkage, defined by the South West Regional Ecological Linkage (SWREL) Report (Molloy et al., 2009) is mapped approximately 200 metres west of the application area connecting it to Buller Nature Reserve, Myalup State Forest and Hamel State Forest. The SWREL Report notes that patches of remnant vegetation which contribute to the maintenance, function and viability of DEC (now DBCA) Managed Estate are high priorities for inclusion in the linkage.

As the application area forms part of an ecological linkage it assists in the maintenance of the ecological process of conservation reserves within the local area. This value is heightened by the application areas high fauna habitat value that assists in the maintenance of these species within the connected reserves. Area 1 has cleared land on either side and a lower fauna habitat value, therefore the proposed clearing of Area 1 will impact the SWREL, however it is not likely to lead to a significant impact on the environmental values of Buller Nature Reserve, Myalup State Forest and Hamel State forest.

A phytophthora dieback occurrence assessment for Lot 3 reports that the study area has previously been used for sand mining, and no records or evidence of hygiene practices for this operation were identified during the assessment. This is supported by the presence of infested areas in the surrounding vegetation, where the evidence suggests that the pathogen has spread from the operational area into the vegetation (Glevan Consulting, 2015). The disturbance caused by the proposed clearing is likely to further spread dieback to Lot 3 and surrounding areas. Therefore, the proposed clearing has the potential to introduce/spread dieback into Buller Nature Reserve.

Given the above, the proposed clearing is at variance to this Principle.

**Methodology**   References:  
Glevan Consulting (2015)  
Molloy et al. (2009)

GIS Databases  
DBCA Estate

**(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.**

**Comments**       **Proposed clearing may be at variance to this Principle**  
As discussed in Principle (f) Lot 3 Buller Road comprises various wetland areas including resource enhancement category, conservation category and multiple use wetlands. The wetland areas closest to the application area are:

- UFI 5004 multiple use sumpland (seasonally inundated basin) – 15 metres north
- UFI 4807 conservation category sumpland – 144 metres west
- UFI 4363 conservation category sumpland – 390 metres west

Surrounding these three wetlands is an area of sumpland (UFIs 4801 and 4646) that has been mapped but not evaluated into a management category (i.e. Not Assessed). The then Department of Parks and Wildlife (2015b) advised that it is not clear whether the wetland areas are part of one larger sumpland system or are discrete wetlands, however the proximity of the wetland areas may indicate hydrological connectivity.

The clearing of vegetation within Lot 3 may result in sedimentation and erosion processes affecting the adjacent wetlands and subsequently a modification to the water quality.

Groundwater salinity within the application area is mapped 500-1,000 total dissolved solids, milligrams per litre. This level of groundwater salinity is classified as 'Marginal'. Given this level the proposed clearing is not likely to increase groundwater salinity.

The sand excavation also has the potential to impact on wetland values through changes to local hydrology.

It is understood that sand excavation will not occur within two metres of groundwater, however the sand excavation will significantly alter the landform of Lot 3 and subsequently the local catchment flows will be modified (Parks and Wildlife, 2015b). The then Department of Parks and Wildlife advised that in general it supports the Environmental Protection Authority's (EPA) recommendation of a minimum 50 metre buffer from wetlands that are to be protected. The mitigation of hydrological impacts in this instance may require a larger wetland buffer, however no site specific pre or post development hydrological information has been provided to indicate the predicted level of change (Parks and Wildlife, 2015b).

It is acknowledged that the potential changes to local hydrology are linked to the end land use, however the proposed clearing may cause deterioration in the quality of surface water through sedimentation and erosion processes.

In regards to a similar assessment for a previous clearing permit application (CPS 6620/1), which overlaps the current application area, the applicants previous consultant submitted the following advice:

- As part of any extractive industries licence appropriate management plans are/will be developed to manage groundwater impacts;
- No sand extraction will be conducted within two metres of the water table and therefore it is considered that groundwater will not be impacted; and
- As part of any future sand extraction licence, monitoring bores (subject to Department of Water (now DWER) approval, if required) will be placed on Lot 3 to monitor groundwater and ensure no impacts.

The applicant's advice in respect to groundwater is acknowledged. However surface water quality impacts were not addressed.

Therefore, the proposed clearing may be at variance to this clearing Principle.

**Methodology** References:  
Parks and Wildlife (2015b)

GIS Databases  
Hydrography, linear  
Geomorphic Wetlands (Mgt Categories), Swan Coastal Plain  
Groundwater Salinity

**(j) Native vegetation should not be cleared if clearing the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.**

**Comments** **Proposed clearing is not likely to be at variance to this Principle**

Given the porous nature of the mapped soils and the low mapped (less than three per cent) flood risk (Schoknecht et al., 2004), the proposed clearing is not likely to increase the incidence or intensity of flooding.

The proposed clearing is not likely to be at variance to this Principle.

**Methodology** References:  
Schoknecht et al. (2004)

GIS Databases  
Flood Risk  
Soils – Sub-systems



## Planning instruments and other relevant matters.

### Comments

#### History

In 1998, a 'Notice of Intent' (NOI) to clear was lodged with the Department of Agriculture, Western Australia, to progressively clear vegetation in 6x1 hectare blocks within Lot 3 Buller Road. The Inter Agency Working Group found issues with rare and priority flora, low representation of species in the area, and the need for rehabilitation and wetland buffers. The NOI was referred to the EPA for further assessment, after which the application was withdrawn.

In 2000, a NOI was lodged to clear 25 hectares within the same lot. The NOI was referred to the EPA, after which a site visit was conducted by the EPA Service Unit to investigate the flora and fauna values of the proposed clearing area. The EPA subsequently found that the proposal did not meet its objectives for conservation of biodiversity and advised in correspondence dated 11 October 2001 that the level of assessment would likely to be set as 'Proposal Unlikely to be Environmentally Acceptable'.

The EPA then consulted with the proponent to discuss the development of an environmental management plan and a conservation covenant, and decided to allow an interim arrangement to clear 2.7 hectares of the original 25 hectare proposal.

In December 2002, the EPA informed the proponents that prior to consideration of future clearing proposals for an additional 3.2 hectares on the property, it would "need to be satisfied that some appropriate mechanism is in place to protect the areas of greatest conservation significance".

The EPA advised the proponents that they would either need to enter into a conservation covenant for the remainder of Lot 3 Buller Road, or transfer the ownership of the remainder Lot 3 Buller Road to the former Department of Conservation and Land Management (CALM), and also develop a rehabilitation and conservation plan for the entire property. The EPA also advised the proponent that future proposals would need to take into account the success of rehabilitation. A site inspection on 27 February 2006 could not identify areas that were being actively or effectively revegetated with regrowth being observed as limited to sparse *Acacia puchella*, *Kunzea glabrescens* and some sedge species.

On 26 July 2005, a clearing permit application (CPS 805/1) was submitted to the former Department of Environment (DoE) to clear 38.8 hectares. The assessment of this application noted that the area under application may contain habitat for fauna and rare flora, is a significant remnant in an area that has been extensively cleared and contains vegetation that is growing in association with a wetland.

CPS 805/1 was refused on 11 August 2006, advising that, based on the EPA decision and advice, DoE could not approve any clearing application greater than 3.2 hectares of vegetation (identified by the EPA) unless the proposal is re-submitted to the EPA for assessment, as this would constitute a substantial change. It was considered that if the proponent was willing to reduce the area under application to 3.2 hectares, the proponents would either need to enter into a conservation covenant on the remainder Lot 3 Buller Road or transfer ownership of the remainder of Lot 3 Buller Road to CALM. This would then satisfy the previous requirements outlined by the EPA. In addition, an appropriately timed flora and fauna survey would be required to ensure that the proposal to clear 3.2 hectares would not impact on any rare flora or fauna.

In September 2006, the decision to refuse CPS 805/1 was appealed. On 30 March 2007, the Minister for the Environment; Climate Change dismissed the appeal.

In February 2007, it was noted that clearing was being undertaken on Lot 3. A site inspection was undertaken by the former DEC officers who were advised that the clearing was undertaken so that the existing pit could be rehabilitated in accordance with a Shire recommendation. An Environmental Field Notice was served. In September 2007, it was observed that approximately 1.6 hectares of vegetation had been cleared from the southern and western pit edges. A Vegetation Conservation Notice (VCN) (CPS 2124/1) was subsequently served on 27 September 2007 requiring that no further unlawful clearing takes place on Lot 3 Buller Road. A further site inspection in November 2007 confirmed that another small area of vegetation had been removed. A second VCN (CPS 2215/1) was given in September 2008 requiring the 1.6 hectares area to be revegetated. Since this VCN was given, revegetation activities have been unsuccessful in re-establishing native vegetation and further works were required. Direct seeding of 1.65 kilograms of seed was conducted in 2010 with limited success. The limited success was attributed to low rainfall and grazing by kangaroos. Further revegetation works were conducted in 2013 which involved the planting of 500 seedlings. This attempt resulted in a 50 per cent survival rate.

In May 2016, DER revoked VCNs 2124 and 2215, noting that revegetation to date had not been successful and that the area was burnt in the January fires. A Delegated Officer of DER granted a clearing permit (CPS 6701/1) over an adjacent degraded 6.2 hectare area and it was determined that clearing this area may indirectly impact on any future revegetation efforts.

On 17 June 2015, AMG (WA) Pty Ltd applied for a permit to clear 33.84 hectares of native vegetation within Lot 3 on Diagram 35920, Waroona for the purpose of sand extraction (Reference: CPS 6620/1). Through the assessment this application was reduced to 20.8 hectares. The Delegated Officer determined that the proposed clearing will result in the loss of 20.8 hectares of vegetation that: contains high biodiversity, significant habitat for fauna, including foraging and potential breeding habitat for black cockatoos, forms part of a regionally significant ecological linkage and is a significant remnant in a highly cleared area. In February



2016, the applicant was informed of the findings of former Department of Environment Regulation (DER) preliminary assessment, and was provided an opportunity to further amend the application area in order to avoid significant environmental impacts during a meeting in July 2016. The applicant declined to amend the application to avoid potential impacts. On 10 August 2016, the then Department of Environment Regulation (DER) refused the clearing permit application.

On 24 August 2016, the applicant appealed DER's decision to refuse the application. In summary, the appellant submitted that the permit ought to have been granted on the basis that the values of the vegetation proposed to be cleared are not so significant that an offset could not have been considered, and that the values have been further impacted by dieback and the Waroona fire in January 2016. The appellant also submitted that the decision to refuse the permit was inconsistent with planning documents and other decisions made by DER in the area, including in respect to the application of offsets. On 31 January 2017, the Minister for Environment dismissed the appeal stating that while some damage to vegetation was an inevitable consequence of fire, the values of the vegetation are capable of being re-established over time, specifically in relation to foraging habitat and as being part of a regional ecological linkage. The Minister further advised that, although DER cited two instruments (State Planning Policy 2.4 and the Greater Bunbury Region Scheme) that do not apply to Lot 3, the instruments that are applicable do not identify the site as of regional or State significance for basic raw materials. The Minister noted that this decision does not prevent the appellant lodging a fresh application for a permit to clear with DER.

#### Other Relevant Matters

This clearing permit application is a joint venture between AMG (WA) Pty Ltd and Pandanus Park Aboriginal Corporation.

The applicant has obtained letters of support for the project from:

- Minister for Indigenous Affairs
- Peel Development Commission
- Josie Farrer – Member for the Kimberley
- Department of Aboriginal Affairs
- Minister for Employment
- Department of Training and Workforce Development

AMG (WA) Pty Ltd holds a ten year lease over Lot 3 Buller Road. The current lease expires on 31 April 2025 and has the possibility of extension for another ten years.

On 29 September 2015, the Shire of Waroona (2015) issued an extractive industry licence (EIL) to the owners of Lot 3. Condition 1 of the EIL states 'The Extractive Industry hereby approved shall operate in accordance with the approved Site Management Plan to the satisfaction of the Shire of Waroona'. The Site Management Plan identifies a 13.1 hectare extraction area which is consistent with the area granted under clearing permit CPS 6701/1. On 29 June 2017, an email from the Shire of Waroona was received advising that no further application have been received from the Shire for Lot 3 (Shire of Waroona, 2017a).

The application area is mapped within the Murray groundwater area which is an area proclaimed under the *Rights in Water and Irrigation Act 1914* (RIWI Act). Under the RIWI Act, if a bore is to be drilled and water taken for the purposes other than the exemption criteria, a licence application must be made to DWER. On 19 August 2015 the then Department of Water (now DWER) advised that its records indicate that there are no current groundwater licences or applications pending with relation to the Lot 3 Buller Road (DoW, 2015). On 21 August 2017 Water Licensing – Peel Region, DWER confirmed that this advice remains the same (DWER, 2017b).

In an email dated 13 February 2017, the then Department Mines and Petroleum (DMP) confirmed that Lot 3 Buller Road, Waroona has been identified and mapped as containing a Regionally Significant Basic Raw Material (RSBRM) for sand. The RSBRM mapping of the Swan Coastal Plain was carried out using a consistent rule set, designed to identify the larger and hence most significant sand deposits – taking into account surface area and thickness above water table (DMP, 2017). DMP further advised that the mapping serves as a useful planning tool to identify the more significant basic raw material resources in a regional context, however it cannot be taken as government endorsement of approval for mining, which needs to consider other matters such as environmental and planning approvals (DMP, 2017).

On 10 February 2017, the Shire of Waroona sent an email to the applicant noting the following: "The Draft South Metropolitan Peel Sub-Regional Planning Framework does identify Lot 3 as containing a regionally significant basic raw material. It should be noted that the Draft Framework is one of a number of considerations to be made in assessing land use proposals, including:

- *Planning and Development Act 2005*;
- *Local Government Act 1995*;
- *Environmental Protection Act 1986*;
- *Environmental Protection (Noise) Regulations 1997*;
- *Shire of Waroona Town Planning Scheme No. 7 1996*;
- *Shire of Waroona Extractive Industries Local Law 1999*;
- *Environmental Protection Authority Guidance Statement 3 – Separation Distances Between Industrial and Sensitive Land Uses 2005*;
- *Peel Region Scheme 2003*;



- Peel Region Scheme Strategic Minerals and Basic Raw Materials Policy 2002;
- Local Planning Strategy 2009;
- Local Planning Policy 1 – Community Consultation;
- Local Planning Policy 15 – Extractive Industry”.

Shire of Waroona (2017b)

The Shire of Waroona Town Planning Scheme No. 7 1996 maps the application area as being zoned as rural (Rural 1). In this zone extraction 'is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions' (DoP, 1996). This scheme defines the objectives of rural zones as 'Council's objective is to preserve the rural character of the District's farming lands and to ensure that they continue to contribute materially to the District's economy, whilst recognising that changes in land use practices will affect land management and the landscape generally' (DoP, 1996).

The principal purpose of the Peel Region Scheme Strategic Mineral and Basic Raw Materials Resource Policy 2002, as noted above, is to ensure long term security of access for minerals and basic raw materials and to achieve this through appropriate land use planning and control of development (WAPC, 2002). This Policy identifies lands within the Peel Region Scheme area which contains mineral resources and basic raw material of State and regional significance (WAPC, 2002). The Policy Map does not identify Lot 3 Buller Road as a Strategic Mineral and Basic Raw Materials Resource Policy Area.

Lot 3 is within the area covered by the Peel Region Scheme. The Peel Region Scheme mapping of Strategic Agricultural and Mineral and Basic Raw Materials Resource Areas does not identify Lot 3 Buller Road as a Strategic Mineral and Basic Raw Material Resource Area.

The Local Planning Strategy 2009 does not map the application area as a 'Strategic Minerals and Basic Raw Materials Resource Policy Area'.

Lot 3 is located on the swan coastal plain, where the cumulative impacts of the loss of banksia woodlands and other areas of suitable foraging habitat on the swan coastal plain has led to a restriction on the availability of food sources for black cockatoos. All clearing proposals located within this area will have due consideration for the cumulative local and regional scale impacts.

Lot 3 Buller Road is identified as being part of a 'Peel Regionally Significant Natural Area' (RSNA) under the Environmental Protection Authority's Environmental Protection Bulletin (EPB) No. 12. EPB No.12 identifies regionally significant natural areas that should be considered during strategic planning. In a highly cleared landscape, these areas represent the range of landscapes, habitats, vegetation and flora originally found in the area (EPA, 2013). Any developments in this area will be considered on their merits. However, those impacting on regionally significant natural areas will be subjected to higher scrutiny (EPA, 2013).

The EPA notes that:

- the primary protection of remnant native vegetation is best achieved by locating development in cleared areas in preference to un-cleared lands;
- the Peel RSNAs information provides a key resource to inform strategic regional planning;
- the information provides guidance to State and Local Government authorities, community, industry and developers in planning to firstly, avoid, and then minimise, the impacts of development proposals and planning schemes on natural areas; and,
- development proposals and planning scheme amendments that impact on the Peel RSNAs will require detailed investigations of their natural values consistent with EPA Guidance Statements 10, 51 and 56.

(EPA, 2013)

The area under application falls within the area subject to the Environmental Protection (Peel Inlet-Harvey Estuary) Policy 1992 (EPP). The purpose of this policy is to set out the environmental quality objectives for the Peel Inlet and Harvey River and outlines the means by which these objectives are to be achieved and maintained. The EPP environmental quality objectives relate to limiting the median load (mass) of total phosphorous flowing into the Estuary so that excessive growth of algae can be prevented (EPA, 1992).

Achievement and maintenance of the environmental quality objectives are primarily through the planning process. To this end, Statement of Planning Policy 2.1 (SPP 2.1) was gazetted in 2003. SPP 2.1 contains specific policy provisions that relate to different land uses, including a requirement that SPP 2.1 shall be implemented through the local planning schemes operating within the Peel-Harvey Coastal Plain Catchment (EPA, 1992).

As of 29 September 2017, DWER has not received an application for a works approval for this project. Works approvals (WA) and licences granted under Part V, Division 3 of the EP Act regulate emissions and discharges that originate from the proposed activities that fall within the description of the relevant category in the EP Regulations. In the case of Category 12 (screening, washing, crushing, grinding or milling, sizing or separating of material extracted from the ground), the WA and licence can regulate noise, dust and potentially contaminated wastewater or stormwater that originate from any comminution or beneficiation activities that occur after material has been extracted from the ground but would not address impacts from the act of

extracting the material or from transporting the material from site.

Approximately two hectares of the application area (southern section) intersects a mapped Aboriginal Site of Significance, being; Buller Road Camp.

On 16 June 2017, a direct interest letter was sent to the Peel Harvey Catchment Council (PHCC) as the proposed clearing falls within their area of interest. A response to the direct interest letter was received on 24 August 2017. PHCC's submission refers to two previous submissions which were provided in response to two prior clearing permit applications on the same property (CPS 6620/1 and CPS 6701/1). PHCC reiterates its previous advice and strongly objects to any further clearing in Lot 3 Buller Road based on the reasons outlined in their previous correspondence and as summarised below:

- Lot 3 supports a significant area of native vegetation of high ecological value;
- The vegetation is likely to be part of the Southern River Complex, of which over 80 per cent has already been cleared;
- The proposal will likely result in significant impacts to threatened or endangered black cockatoos species and the endangered Glossy - leaved Hammer Orchid (*Drakea elastica*);
- Any further extractive use of Lot 3 (or any other lot with contiguous native vegetation) must be assessed with consideration to the long term protection of biodiversity and water quality in the Peel-Harvey Catchment and the Perth and Peel Regions; and
- The further loss of native vegetation and perennial vegetation cover in the coastal catchment of the Peel-Harvey Estuary is not acceptable. Further loss of native vegetation (and sand) will increase water runoff to local watercourses and increase the risk of increased sediment and nutrient movement to downstream ecosystems.

(PHCC, 2017)

The concerns outlined above have been addressed within the assessment of the ten clearing principles.

Methodology	References:
	DMP (2017)
	DWER (2017b)
	EPA (1992)
	EPA (2010)
	PHCC (2017)
	Shire of Waroona (2015)
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- Shah, B. (2006) Conservation of Carnaby's Black-Cockatoo on the Swan Coastal Plain, Western Australia. December 2006. Carnaby's Black-Cockatoo Recovery Project. Birds Australia, Western Australia.
- Shire of Waroona (2015) Email advice that the Extractive Industry Licence is pending subject to a Spring Flora Survey. Email dated 8 September 2015 (DER Ref: A968099).
- Shire of Waroona (2017a) Response to Direct Interest Letter. Received on 29 June 2017 (DWER Ref: A1463756).
- Shire of Waroona (2017b) Email dated 10 February 2017 providing advice on mapped sand resources (DWER Ref: A1391220).
- Submission (2017) Public submission received in response to clearing permit application CPS 7516/1. Received on 5 July 2017 (DWER Ref: A1469418)
- Terrestrial Ecosystems (2015) Level 1 Fauna Risk Assessment for the 'Jackson Block' of Lot 3 Buller Road, Waroona. Prepared for MDW Environmental Services. Version 1. May 2015 (DER Ref: A922976).
- Valentine, L.E. and Stock, W. (2008) Food Resources of Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*) in the Gnarup Sustainability Strategy Study Area. Edith Cowan University and Department of Environment and Conservation. December 2008.
- Water and Rivers Commission (2001) Position Statement: Wetlands, Water and Rivers Commission, Perth.
- Western Australian Planning Commission (WAPC) (2002) Peel Region Scheme Strategic Minerals and Basic Raw Materials Resource Policy. October 2002.
- Woodman Environmental (2015) Lot 3 Buller Road Waroona, Level 2 Flora and Vegetation Assessment. Prepared for KD.1 Pty Ltd. November 2015 (DER Ref: A1025615)



Meeting with DWER RE: Aaron Cranger

- ecological linkages
- a significant remnant
- Black Coebatao
  - ↳ high number of potential nesting trees
  - ↳

s22

s22

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**From:** FOI Contact Officer  
**Sent:** Tuesday, 24 September 2019 1:47 PM  
**To:** s22  
**Subject:** FW: VT2245 - Third Party Consultation - DE&E - [SEC=UNCLASSIFIED]

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**From:** FOI Contact Officer  
**Sent:** Friday, 15 March 2019 5:58 PM  
**To:** s47F  
**Cc:** FOI Contact Officer <FOI@environment.gov.au>  
**Subject:** RE: VT2245 - Third Party Consultation - DE&E - [SEC=UNCLASSIFIED]

Dear s47F

Thank you for your time over the telephone.

As discussed the Department of the Environment and Energy has no concerns or issues with the disclosure of the documents, provided the following redactions occur:

- Junior officer names and contact details are redacted under section 22 of the FOI Act; and
- The additional EPBC Act projects discussed in Document 62 are redacted, as they are not relevant (not in scope) to an FOI specifically related to the assessment of Mr Grainger's proposed action.

The names junior officer (emails and contact details) to redact are as follows:

A large rectangular area is redacted with a grey background. The text 's22' is written in large, bold, black font across the top portion of the redacted area.

Document 72

Should you come across any other names it would be appreciated if you could redact.

Please do not hesitate to contact me should you have any questions.

Regards

A redacted signature consisting of the text 's22' in a large, bold, black font on a grey background.

**FOI Contact Officer** | General Counsel Branch  
Department of the Environment and Energy  
**a:** GPO Box 787 CANBERRA ACT 2600  
**t:** 02 6274 2098  
**e:** [foi@environment.gov.au](mailto:foi@environment.gov.au)



---

**From:** S47F

**Sent:** Tuesday, 12 March 2019 1:41 PM

**To:** FOI Contact Officer

**Subject:** VT2245 - Third Party Consultation - DE&E -

Good morning all

The Department of Water and Environmental Protection (DWER) has received an application under the provisions of the *Freedom of Information Act 1992* (the FOI Act) seeking access to copies of documents held DWER from Mr Aaron Grainger (Mr Grainger) relating to all correspondence between the ex-Department of Environment Regulation (DER) now the Department of Water and Environmental Regulation (DWER) about a clearing permit. This application to the DWER is in accordance with rights under the FOI Act.

The FOI Act gives individuals and organisations the legal right to apply to all State and Local Government agencies in Western Australia, including the DWER, for access to copies of documents held by State and Local Government agencies. Documents are defined in the FOI Act broadly and will include written material, including email correspondence, plans and drawings, photographs, videos, tape recordings and any kind of information that is stored in electronic form.

Under the FOI Act, all State and local government agencies are required to assist members of the public to obtain access to the documents. In addition, the FOI Act states that a person's right to apply for access to copies of documents all State and Local Government agencies in Western Australia is not affected by any reasons HydroSolutions may give for seeking access to documents.

The DWER has identified a number of documents that fall within the scope of this application. [I will send a link so that you can access the documents in One Drive.](#)

These documents contain, among other things, some personal information about individuals other than the applicant as well as some commercial and/or business information.

Please note that the requested documents have not been released to applicant by the DWER at this stage of the processing of the FOI application.

As the identified document(s) contain some personal or business information about you, it is regarded as a "**third party**" for the purposes of sections 32 and 33 of the FOI Act and, as a result, you has rights under the FOI Act. I enclose, for your information, an explanatory document published by the Office of the Information Commissioner (WA) which describes and explains your rights as third parties under the FOI Act.

### **Consideration**

The DWER is presently considering whether or not to give Mr Grainger access to the requested documents. Section 4 of the FOI Act requires all State and local Government agencies to give effect to the FOI Act in a way that assists the public to obtain access to documents promptly and at the lowest reasonable cost. In principle, DWER holds the view that, in accordance with the "spirit and intent" of the FOI Act, access should be given to the requested documents, unless there are some compelling public interest reasons why access should not be given.

Sections 32 and 33 of the FOI Act require the DWER to consult with any potentially affected third party if it decides to give access to a copy to all or some of the requested documents. The purpose of the consultation provision of the FOI Act is to seek the third parties' views as to whether one or more third party considers that the requested document(s) contain any information which a third party considers is exempt information under clause 3 (personal information) or clause 4 (commercial or business information) of Schedule 1 to the FOI Act.

Where the DWER receives an FOI application like this one, the DWER removes all personal information about individuals from the requested documents, including details such as an individual's name, addresses, telephone numbers and email addresses, before releasing any documents under the FOI Act. Personal

information of the kind described above is **only** released by the DWER with the express written consent of an individual third party. However, in this instance, individual names will be released.

## Consultation

Would you please advise the DWER, as soon as practicable and, in any event, by no later than **15 March 2019** whether you **consent** to the requested documents being released to Mr Grainger. If you do consent, a reply email address to s47F on or before **15 March 2019** will suffice.

In the alternative, if you **do not** consent to the requested documents being released to Mr Grainger, I invite you to tell the DWER why you do not consent to the requested documents being released to the FOI applicant. In that regard, it is not sufficient for you to simply object to access being given to the requested documents. You must give written reasons why it considers that the requested documents contain matter that is exempt matter under clause 3 or clause 4 of Schedule 1 to the FOI Act.

I enclose a copy of relevant excerpts from the FOI Act which may assist you in its consideration of this matter. You may also obtain further information about the operation of the FOI Act and about its rights under the FOI Act from the Office of the Information Commissioner telephone: (08) 6551 7888 or from the Information Commissioner's website at [www.oic.wa.gov.au](http://www.oic.wa.gov.au).

Please note that if you do not respond to this email, on or before **15 March 2019**, then the DWER will make its decision on whether to release the requested document to Mr Grainger, without the benefit of being able to consider and take into account any information you may wish to put before the DWER. If you have any queries in relation to the matters raised in this email, please do not hesitate to contact me on s47F or by email to s47F

Thank you very much for your assistance in this matter, much appreciated.

Kind regards

s47F

s47F

Legal Services

Department of Water and Environmental Regulation

Prime House, 8 Davidson Terrace, Joondalup WA 6027

Locked Bag 10, Joondalup DC WA 6919

s47F

| [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

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s22

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**From:** FOI Contact Officer  
**Sent:** Tuesday, 24 September 2019 1:46 PM  
**To:** s22  
**Subject:** FW: VT2701 - Lot 3 Buller Road, Waroona WA - Third party consultation - DE&E [SEC=OFFICIAL]

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**From:** FOI Contact Officer  
**Sent:** Monday, 3 June 2019 3:36 PM  
**To:** s47F  
**Cc:** FOI Contact Officer <FOI@environment.gov.au>  
**Subject:** RE: VT2701 - Lot 3 Buller Road, Waroona WA - Third party consultation - DE&E [SEC=OFFICIAL]

Dear s47F

Thank you for your email.

The Department of the Environment and Energy have no objection to the disclosure of the documents with the exception of the names of junior officers being redacted as follows:

- s22 N 1 – Page 3
- s22 – DN 1 – Page 3

Please do not hesitate to contact me should you have any questions.

Kind regards

s22

**FOI Contact Officer** | General Counsel Branch  
Department of the Environment and Energy  
**a:** GPO Box 787 CANBERRA ACT 2600  
**t:** 02 6274 2098  
**e:** [foi@environment.gov.au](mailto:foi@environment.gov.au)

---

**From:** s47F  
**Sent:** Monday, 27 May 2019 2:12 PM  
**To:** FOI Contact Officer  
**Subject:** VT2701 - Lot 3 Buller Road, Waroona WA - Third party consultation - DE&E

Good afternoon s22

The Department of Water and Environmental Protection (DWER) has received an application under the provisions of the *Freedom of Information Act 1992* (the FOI Act) seeking access to copies of documents held DWER relating to Lot 3 Buller Road, Waroona WA. This application to the DWER is in accordance with rights under the FOI Act.

The FOI Act gives individuals and organisations the legal right to apply to all State and Local Government agencies in Western Australia, including the DWER, for access to copies of documents held by State and Local Government agencies. Documents are defined in the FOI Act broadly and will include written material, including email correspondence, plans and drawings, photographs, videos, tape recordings and any kind of information that is stored in electronic form.

Under the FOI Act, all State and local government agencies are required to assist members of the public to obtain access to the documents. In addition, the FOI Act states that a person's right to apply for access to copies of documents all State and Local Government agencies in Western Australia is not affected by any reasons the FOI applicant may give for seeking access to documents.

The DWER has identified two documents that fall within the scope of this application.

These documents contain, among other things, some personal information about individuals other than the applicant as well as some commercial and/or business information.

Please note that the requested documents have not been released to applicant by the DWER at this stage of the processing of the FOI application.

As the identified document(s) contain some personal or business information about you/Department of Environment & Energy (DE&E), it is regarded as a **"third party"** for the purposes of sections 32 and 33 of the FOI Act and, as a result, you has rights under the FOI Act. I enclose, for your information, an explanatory document published by the Office of the Information Commissioner (WA) which describes and explains your rights as third parties under the FOI Act.

### Consideration

The DWER is presently considering whether or not to give the FOI applicant access to the requested documents. Section 4 of the FOI Act requires all State and local Government agencies to give effect to the FOI Act in a way that assists the public to obtain access to documents promptly and at the lowest reasonable cost. In principle, DWER holds the view that, in accordance with the "spirit and intent" of the FOI Act, access should be given to the requested documents, unless there are some compelling public interest reasons why access should not be given.

Sections 32 and 33 of the FOI Act require the DWER to consult with any potentially affected third party if it decides to give access to a copy to all or some of the requested documents. The purpose of the consultation provision of the FOI Act is to seek the third parties' views as to whether one or more third party considers that the requested document(s) contain any information which a third party considers is exempt information under clause 3 (personal information) or clause 4 (commercial or business information) of Schedule 1 to the FOI Act.

Where the DWER receives an FOI application like this one, the DWER removes all personal information about individuals from the requested documents, including details such as an individual's name, addresses, telephone numbers and email addresses, before releasing any documents under the FOI Act. Personal information of the kind described above is **only** released by the DWER with the express written consent of an individual third party.

### Consultation

Would you please advise the DWER, as soon as practicable and, in any event, by no later than **3 June 2019** whether you **consent** to the requested documents being released to the FOI applicant. If you do consent, a reply email address to s47F on or before **3 June 2019** will suffice.

In the alternative, if you **do not** consent to the requested documents being released to the FOI applicant, I invite you to tell the DWER why you do not consent to the requested documents being released to the FOI applicant. In that regard, it is not sufficient for you to simply object to access being given to the requested documents. You must give written reasons why it considers that the requested documents contain matter that is exempt matter under clause 3 or clause 4 of Schedule 1 to the FOI Act.

I enclose a copy of relevant excerpts from the FOI Act which may assist you in its consideration of this matter. You may also obtain further information about the operation of the FOI Act and about its rights under the FOI Act from the Office of the Information Commissioner telephone: (08) 6551 7888 or from the Information Commissioner's website at [www.oic.wa.gov.au](http://www.oic.wa.gov.au).



Please note that if you do not respond to this email, on or before **3 June 2019**, then DWER will make its decision on whether to release the requested documents, without the benefit of being able to consider and take into account any information you may wish to put before DWER. If you have any queries in relation to the matters raised in this email, please do not hesitate to contact me on s47F or by email to s47F

Thank you very much for your assistance in this matter, much appreciated.

Kind regards

s47F

Legal Services

Department of Water and Environmental Regulation

Prime House, 8 Davidson Terrace, Joondalup WA 6027

Locked Bag 10, Joondalup DC WA 6919

s47F

| [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

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s22

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**From:** s22  
**Sent:** Thursday, 4 April 2019 7:05 PM  
**To:** 'registrar@dwer.wa.gov.au'  
**Cc:** s47F  
**Subject:** Proposed Approval: EPBC 2018/8138 [SEC=OFFICIAL]  
**Attachments:** 2018-8138-Proposed Approval-Decision Notice (DRAFT).pdf; 2018-8138-Proposed Approval-Notification Letter (DWER).pdf

Good Evening,

This email is to inform you that a proposed approval decision for the Waroona Sand Extraction Proposal (EPBC 2018/8138) has now been made. Please find attached the proposed conditions and a letter inviting comment on the proposed decision.

Please note that hard copies of these documents have not been sent. If you have any questions, please let me know.

Regards,

s22

Acting Assistant Director  
Project Assessments West  
Environment Standards Division  
Department of the Environment and Energy

GPO Box 787, Canberra ACT 2601

s22



Australian Government  
Department of the Environment and Energy





**s47F**

Department of Water and Environmental Regulation  
Locked Bag 33, Cloisters Square  
PERTH WA 6850

Dear **s47F**

**Invitation to comment on proposed approval decision  
Sand Extraction, Lot 3 Buller Road, Waroona, Western Australia**

I am writing to you in relation to a proposal by AMG (WA) Pty Ltd to clear vegetation from, and to conduct sand extraction at, Lot 3 Buller Road, Waroona, Western Australia. The proposed action was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and communities (section 18 & section 18A).

I am proposing to approve the proposed action subject to conditions.

**My proposed decision of approval is attached. I understand that you may have administrative responsibilities relating to the action. I invite you to provide comments on my proposed decision of approval, including the conditions which I propose to attach, within 10 business days of the date of this letter.**

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can send comments to:

by letter      Project Assessments West Section  
Assessments & Post Approvals Branch  
Department of the Environment and Energy  
GPO Box 787  
CANBERRA ACT 2601

by email      **s22**

If you have any questions about the approval process or this decision, please contact the project manager, **s22**, by email **s22**.au, or telephone **s22** and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Declan O'Connor-Cox  
Acting Assistant Secretary  
Assessments (WA, SA, NT) & Post Approvals Branch

4 April 2019



**PROPOSED APPROVAL**

**Sand Extraction, Lot 3 Buller Road, Waroona, Western Australia (EPBC 2018/8138)**

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the EPBC Act applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

**Details**

Person to whom the approval is granted (approval holder)	AMG (WA) Pty Ltd
ACN or ABN of approval holder	ACN: 159 617 044
Action	To clear vegetation from, and to conduct sand extraction at, Lot 3 Buller Road, Waroona, Western Australia [See EPBC Act Referral 2018/8138]

**Proposed Approval decision**

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

**Controlling Provisions**

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

**Period for which the approval has effect**

This approval has effect until 31 December 2039

**Decision-maker**

*Name and position*

Declan O'Connor-Cox  
Acting Assistant Secretary of Assessments and Post Approval Branch  
Department of the Environment and Energy

*Signature*

**PROPOSED DECISION DO NOT SIGN**

*Date of decision*

**PROPOSED DECISION - DO NOT DATE**

**Conditions of approval**

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.



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## ANNEXURE A – CONDITIONS OF APPROVAL

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### Part A – Conditions specific to the action

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1. The approval holder may only **clear** land within the **project area** shown at Attachment 1 and must not **clear** more than 14 hectares of **black cockatoo habitat** which may include the clearing of up to 8.11 hectares of **Banksia Woodlands TEC**.
2. To mitigate indirect impacts to **black cockatoos** and the **Banksia Woodlands TEC** the approval holder must not:
  - a. **clear** vegetation or undertake sand extraction within 150 metres of any **conservation category wetland**
  - b. store fuel or other chemicals, or undertake refuelling or vehicle servicing within the boundaries of **Lot 3 Buller Road, Waroona**.
3. The approval holder must submit a Buller Road Environmental Management Plan (BREMP) for the **Minister's** approval that mitigates potential impacts to the adjacent **conservation area** from clearing and mining activities and compensates for the residual significant impacts of the proposed action by maintaining or improving the **vegetative quality** of the parts of the **conservation area** currently rated as very good or good condition.

The approval holder must not **commence the action** unless the **Minister** has approved the BREMP in writing. The approved BREMP must be implemented for the duration of the approval.

The BREMP must be prepared in accordance with the **Department's Environmental Management Plan Guidelines** and include, but not be limited to:

- a. management measures to prevent injury or mortality to **black cockatoos** during clearing activities
- b. objectives, targets and completion criteria for mine closure, including restoration actions which must include site clean-up and native vegetation re-establishment
- c. management measures, including inspection and cleaning regimes for equipment entering or exiting **Lot 3 Buller Road, Waroona** and entering the **Conservation Area** from other parts of **Lot 3 Buller Road, Waroona**, and fencing and access controls, to prevent the introduction and/or spread of *Phytophthora cinnamomi* (dieback) to the **conservation area**
- d. management measures, including weed and feral animal control, in the **project area**, to minimise other threats to the condition of the **conservation area**
- e. management measures, including fencing and access controls, to prevent illegal land use, logging and dumping of waste within the **conservation area**
- f. rehabilitation measures, including site clean-up, weed management and revegetation of tracks, to remediate the impacts of past land use within the **conservation area**
- g. fire management measures, including physical fuel load management, to reduce the risk and severity of a fire event

- h. water management measures to prevent surface water run-off from the mine void and to prevent interception of groundwater during sand extraction, including details of proposed measures to ensure that a 2 metre separation (buffer) between the mine floor and the water table is maintained at all times, as well as adequate monitoring to prevent encroachment into the buffer and timely remediation measures to reinstate this buffer should over excavation occur
  - i. a table of commitments made in the BREMP to achieve the objectives, and a reference to where the commitments are detailed in the BREMP
  - j. clear objectives and performance indicators for all management actions, mitigation measures and practices prescribed by the BREMP including details of the monitoring to be undertaken to demonstrate the effectiveness of the measures
  - k. corrective actions for circumstances where an action, mitigation measure or practice prescribed by the BREMP fails to meet, or is unlikely to meet, its prescribed objective, and trigger action points at which these corrective actions will be implemented
  - l. timeframes for implementing the above measures.
4. To compensate for the loss of **black cockatoo habitat** and **Banksia Woodland TEC**, the approval holder must, prior to the **commencement of the action**, provide the **Department** with:
- a. written evidence that the **conservation area** has been purchased by the approval holder and is being protected and managed in accordance with the BREMP required by Condition 3, to offset the residual significant impacts of the proposed action
  - b. written evidence that a **conservation covenant** has been entered into by the landowner and registered against the title of the entire **conservation area**
  - c. the **offset attributes, shapefiles**, textual descriptions and maps to clearly define the location and boundaries of the **conservation area**.

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## Part B – Standard administrative conditions

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### Notification of date of commencement of the action

- 5. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
- 6. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not commence the action without the prior written agreement of the **Minister**.

### Compliance records

- 7. The approval holder must maintain accurate and complete **compliance records**.
- 8. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

**Note: Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.



## Preparation and publication of plans

9. The approval holder must:
  - a. submit **plans** electronically to the **Department** for approval by the **Minister**;
  - b. publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister**, unless otherwise agreed to in writing by the **Minister**;
  - c. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
  - d. keep **plans** published on the **website** until the end date of this approval.

## Annual compliance reporting

10. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed to in writing by the **Minister**. The approval holder must:
  - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
  - b. notify the **Department** by email that a **compliance report** has been published on the **website** within five **business days** of the date of publication;
  - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
  - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
  - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

**Note:** **Compliance reports** may be published on the **Department's** website.

## Reporting non-compliance

11. The approval holder must notify the **Department** in writing of any: **incident** or non-compliance with the conditions. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
  - a. the condition which is or may be in breach; and
  - b. a short description of the **incident** and/or non-compliance.

## Independent audit

12. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as otherwise requested in writing by the **Minister**.
13. For each **independent audit**, the approval holder must:

- a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
  - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
  - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
14. The approval holder must publish the audit report on the **website** within **10 business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

#### **Revision of action management plans**

15. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** under Condition 3, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
16. The approval holder may choose to revise an action management plan approved by the **Minister** under Condition 3, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the RAMP would not be likely to have a **new or increased impact**.
17. If the approval holder makes the choice under Condition 16 to revise an action management plan without submitting it for approval, the approval holder must:
- a. notify the **Department** in writing that the approved action management plan has been revised and provide the **Department** with:
    - i. an electronic copy of the RAMP;
    - ii. an electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP;
    - iii. an explanation of the differences between the approved action management plan and the RAMP;
    - iv. the reasons the approval holder considers that taking the action in accordance with the RAMP would not be likely to have a **new or increased impact**; and
    - v. written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least **20 business days** after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the **Department**.
  - b. subject to Condition 19, implement the RAMP from the RAMP implementation date.

18. The approval holder may revoke its choice to implement a RAMP under Condition 16 at any time by giving written notice to the **Department**. If the approval holder revokes the choice under Condition 16, the approval holder must implement the previous action management plan approved by the **Minister**.
19. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the RAMP would be likely to have a **new or increased impact**, then:
- a. Condition 16 does not apply, or ceases to apply, in relation to the RAMP; and
  - b. the approval holder must implement the action management plan specified by the **Minister** in the notice.
20. At the time of giving the notice under Condition 19, the Minister may also notify that for a specified period of time, Condition 16 does not apply for one or more specified action management plans.

**Note:** Conditions 16, 17, 18 and 19 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

#### **Completion of the action**

21. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

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#### **Part C - Definitions**

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22. In these conditions, except where contrary intention is expressed, the following definitions are used:
- a. **Banksia Woodland TEC** is the **EPBC Act** listed Banksia Woodlands of the Swan Coastal Plain ecological community
  - b. **black cockatoo habitat** includes foraging, breeding, potential breeding and roosting habitat for the Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*), Baudin's Black Cockatoo (*Calyptorhynchus baudinii*) and Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*) as defined in the *EPBC Act Referral Guidelines for three species of Western Australian black cockatoos: Carnaby's Black Cockatoo (Calyptorhynchus latirostris), (Endangered) Baudin's Black Cockatoo (Calyptorhynchus baudinii) (Vulnerable) and Forest Red-tailed Black Cockatoo (Calyptorhynchus banksii naso) (Vulnerable)* (October 2012).
  - c. **Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
  - d. **Clear, cleared or clearing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).
  - e. **Commence / commencement of the action** means the first instance of any specified activity associated with the action including clearance of vegetation and construction

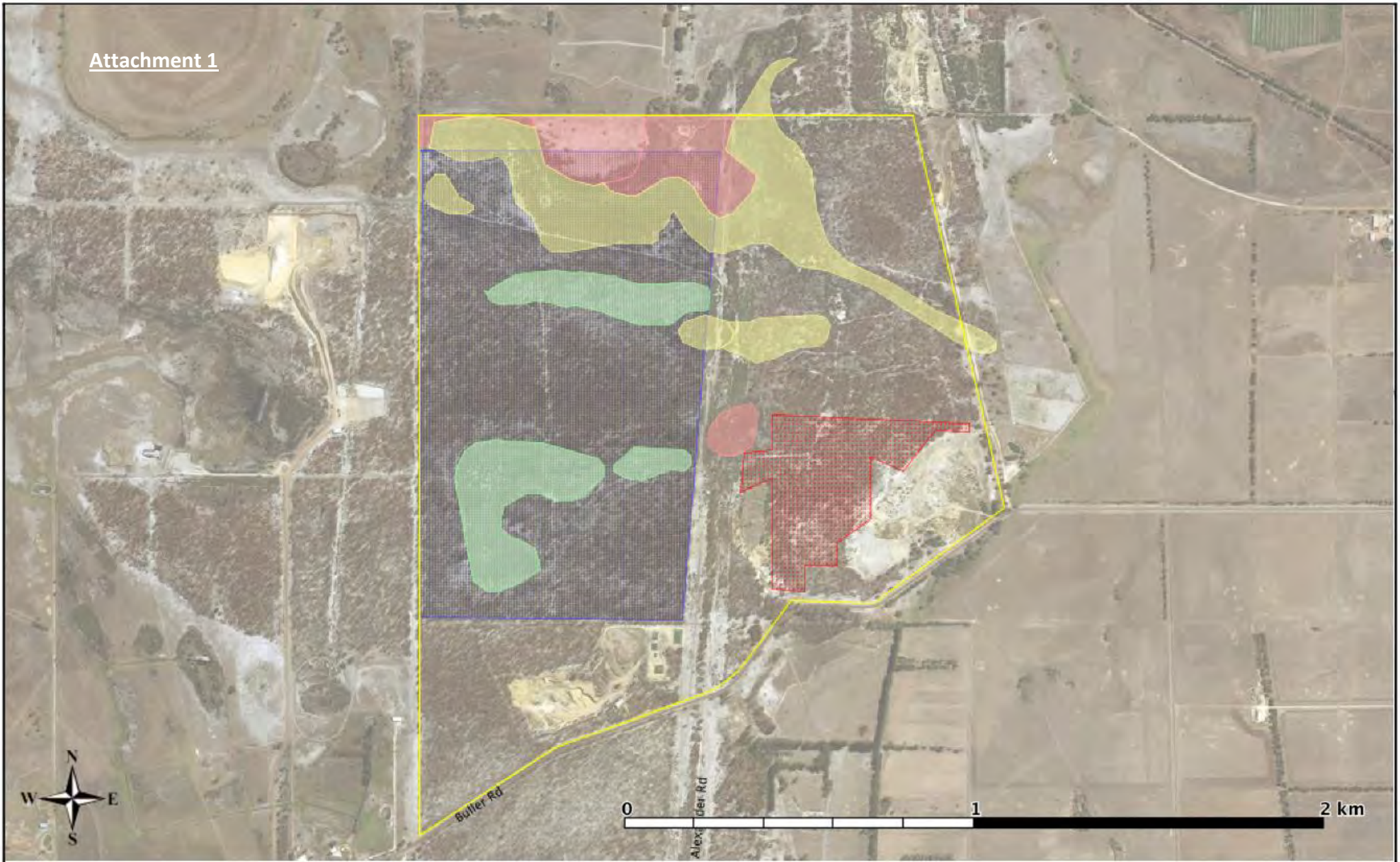


of any infrastructure. Commencement does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs;
  - ii. install signage and /or temporary fencing to prevent unapproved use of the project area;
  - iii. protect environmental and property assets from fire, weeds and pests, including erection or construction of fencing and signage, and maintenance or use of existing surface access tracks, if agreed in writing by the **Department**.
- f. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is shapefile.
- g. **Completion of the action** means all specified activities associated with the action have permanently ceased.
- h. **Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully;
- i. **Compliance report** means a written report:
  - i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
  - ii. consistent with the **Department's Annual Compliance Report Guidelines** (2014);
  - iii. including a shapefile of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
  - iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
- j. **Conservation area** means the 106 ha of land within a portion of **Lot 3 Buller Road, Waroona** comprising 72.5 ha of **black cockatoo habitat** and 36 ha of **Banksia Woodlands TEC** as shown in Attachment 1 (labelled as Direct Offset).
- k. **Conservation category wetland** is one of the management categories assigned to wetlands by the Western Australian Department of Biodiversity, Conservation and Attractions in the Geomorphic Wetland of the Swan Coastal Plain dataset.
- l. **Conservation covenant** is a restrictive, irrevocable, statutory covenant agreed to be the landholder and an authorised body registered against the title of the **conservation area** that aims to protect and enhance the environmental values of the **conservation area**.
- m. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.

- n. **Department's Environmental Management Plan Guidelines** is the Environmental Management Plan Guidelines, Commonwealth of Australia 2014. Available at: <http://www.environment.gov.au/epbc/publications/environmental-management-plan-guidelines>.
- o. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- p. **Incident** means any event which has the potential to, or does, impact on **protected matter(s)**.
- q. **Independent audit**: means an audit conducted by an independent and suitably qualified person as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
- r. **Lot 3 Buller Road, Waroona** is the area enclosed by the yellow line in Attachment 1.
- s. **Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.
- t. **Offset attributes** is an excel file ('.xls') capturing relevant attributes of the offset site required by Condition 2, including the corresponding **EPBC Act** reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the **EPBC Act** protected matters that the offset site compensates, any additional **EPBC Act** protected matters which benefit from the offset site, the size of the offset site in hectares and the legal mechanism used to protect and conserve the offset site.
- u. **Project area** is the 14 hectare area within **Lot 3 Buller Road, Waroona** proposed to be cleared and mined for sand as shown in Attachment 1 (labelled as the Application Area).
- v. **Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.
- w. **Shapefile** is an ESRI shapefile containing '.shp', '.shx', '.prj' and '.dbf' files and other files capturing attributes of the **offset area**, including the shape, **EPBC Act** reference ID number and **EPBC Act** protected matters present at the relevant site and specifications of the projection/geographic coordinate system used. Attributes should also be captured in '.xls' format.
- x. **Vegetative quality** is the vegetation condition of the **Conservation Area** detailed in Plantecology Consulting (2 December 2018). *Document No: 1815 Buller Rd Conservation Area, Vegetation Condition Report V1*.
- y. **website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Attachment 1



PROJECT	<b>Lot 3 Buller Road, Waroona</b>	<b>Legend</b> Direct offset Application Area Conservation Wetland Resource Enhancement Wetland Multiple Use Wetland	Project Number <b>1710</b> Drawing Number <b>FIG 1</b> Revision <b>A</b> Date 19.8.18 Sheet 1 of 1
DRAWING TITLE	<b>FIGURE 1 - Wetland Area</b>		
CLIENT	<b>AMG(WA) Pty Ltd</b>	 PO Box 5176 West Swanston Western Australia 6260 Telephone (08) 9735 7217 Mobile 0818 462 862	Designed KMT Drawn PN Local Authority Shire of Waroona

This drawing has been prepared by and remains the property of Accendo Australia Pty Ltd. This drawing shall not be used without permission. The drawing shall be preliminary only and/or not for construction and signed approval.



s22

---

**From:** s47F  
**Sent:** Monday, 29 April 2019 4:03 PM  
**To:** s22  
**Subject:** RE: EPBC 2018/8138 - Proposed Approval [SEC=OFFICIAL]

Hi s22

Yes, comment will be provided. The letter has been drafted so it should be with you shortly.

Regards

s47F

Native Vegetation Regulation  
s47F

---

**From:** s22  
**Sent:** Monday, 29 April 2019 1:54 PM  
**To:** s47F  
**Subject:** RE: EPBC 2018/8138 - Proposed Approval [SEC=OFFICIAL]

Hi s47F

Just checking to see if DWER is still planning on sending through a comment on the proposed approval decision for EPBC 2018/8138

Cheers,

s22

---

**From:** s22  
**Sent:** Thursday, 18 April 2019 11:26 AM  
**To:** s47F  
**Cc:** s22  
s22  
**Subject:** RE: EPBC 2018/8138 - Proposed Approval [SEC=OFFICIAL]

Hi s47F

As part of the assessment process the Department requested and was provided an updated black cockatoo habitat assessment and updated vegetation condition assessments for both the proposed impact and proposed conservation areas.

Cheers,

s22

Acting Assistant Director  
Project Assessments West  
Environment Standards Division  
Department of the Environment and Energy

GPO Box 787, Canberra ACT 2601

s22



---

**From:** s47F  
**Sent:** Thursday, 18 April 2019 11:24 AM  
**To:** s22  
**Subject:** RE: EPBC 2018/8138 - Proposed Approval [SEC=OFFICIAL]

Morning s22

Did DotEE received updated flora or surveys from Mr Grainger?

Regards

s47F

Native Vegetation Regulation  
s47F

---

**From:** s22  
**Sent:** Wednesday, 17 April 2019 2:42 PM  
**To:** s47F  
**Subject:** RE: EPBC 2018/8138 - Proposed Approval [SEC=OFFICIAL]

Hi s47F

My apologies, I thought I had CC'd you into the standard email notification the Department sends to DWER but on review it looks like I did not.

Do you anticipate commenting on this particular action?

Cheers,

s22

Acting Assistant Director  
Project Assessments West  
Environment Standards Division  
Department of the Environment and Energy

GPO Box 787, Canberra ACT 2601

s22



---

**From:** s47F  
**Sent:** Wednesday, 17 April 2019 1:01 PM  
**To:** s22

Cc: s47F  
Subject: RE: EPBC 2018/8138 - Proposed Approval

Hi s22

A copy of this has been located and forwarded to me for comment. Please ignore my previous email.

Regards

s47F  
Native Vegetation Regulation  
s47F

---

From: s47F  
Sent: Wednesday, 17 April 2019 8:37 AM  
To: s22  
Cc: s47F  
Subject: EPBC 2018/8138 - Proposed Approval

Good morning s22

I understand that the Department of Environment and Energy have invited Mr Aaron Grainger to comment on the proposed approval decision of EPBC 2018/8138.

A copy of this has not made its way to me for comment. Can you please double check that an invitation to comment was sent to DWER.

Regards

s47F  
Native Vegetation Regulation

Department of Water and Environmental Regulation  
Prime House, 8 Davidson Terrace, JOONDALUP WA 6027  
Locked Bag 10, Joondalup DC, WA 6919  
s47F  
[www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)  
Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA)

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system; you must not disclose or use the information contained in this email in any way. No warranty is made that this material is free from computer viruses.

s22

---

**From:** s47F  
**Sent:** Wednesday, 1 May 2019 6:38 PM  
**To:** s22  
**Subject:** Comments from DWER: Sand Extraction, Lot 3 Buller Road, Waroona, WA - 2018/8138  
**Attachments:** Comments from DWER - Sand Extraction Lot 3 Buller Road Waroona.pdf

Good Afternoon s22

Please find comments from the Department of Water and Environmental Regulation on *EPBC 2018/8138 - Waroona Sand Extraction Proposal, WA*.

A hard copy will not be posted.

Regards and Thank you

s47F

EPA Services

Department of Water and Environmental Regulation  
Prime House

8 Davidson Terrace, JOONDALUP WA 6027  
Locked Bag 10, JOONDALUP DC WA 6919

s47F

s47F | [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au) | [www.epa.wa.gov.au](http://www.epa.wa.gov.au)

Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA) | [@EPA\\_WA](https://twitter.com/EPA_WA)

---

**From:** s22  
**Sent:** Thursday, 4 April 2019 4:05 PM  
**To:** Registrar <registrar@dwer.wa.gov.au>  
**Cc:** s47F  
**Subject:** Proposed Approval: EPBC 2018/8138 [SEC=OFFICIAL]

Good Evening,

This email is to inform you that a proposed approval decision for the Waroona Sand Extraction Proposal (EPBC 2018/8138) has now been made. Please find attached the proposed conditions and a letter inviting comment on the proposed decision.

Please note that hard copies of these documents have not been sent. If you have any questions, please let me know.

Regards,

s22

Acting Assistant Director  
Project Assessments West  
Environment Standards Division  
Department of the Environment and Energy

GPO Box 787, Canberra ACT 2601

s22



Australian Government

Department of the Environment and Energy

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Your ref: 2018/8138  
Our ref: DWERDG195/19  
Enquiries: s47F

Project Assessments West Section  
Assessments & Post Approvals Branch  
Department of the Environment and Energy  
GPO Box 787  
**CANBERRA ACT 2601**

**BY EMAIL:** s22

Dear Sir/Madam

***INVITATION TO COMMENT ON PROPOSED APPROVAL DECISION SAND EXTRACTION, LOT 3 BULLER ROAD, WAROONA, WA (2018/8138)***

Thank you for your invitation to comment on the proposed approval decision including conditions dated 4 April 2019.

On 5 January 2018, the Department of Water and Environmental Regulation (DWER) refused a clearing permit application for the clearing of 14 hectares covering approximately the same area as the referral. The Delegated Officer determined to refuse the clearing permit application on the basis that the proposed clearing would result in the loss of 14 hectares of vegetation containing:

- high biodiversity;
- significant habitat for fauna, including foraging and potential breeding habitat for black cockatoos;
- forms part of a regionally significant ecological linkage; and
- a significant remnant in a highly-cleared area.

In making this decision, the Delegated Officer determined that an offset was not appropriate to counterbalance the significant residual impacts likely to result from the clearing of the 14 hectares.

A full description of DWER's assessment of the clearing permit application can be found on DWER's FTP website at:

<ftp://ftp.dwer.wa.gov.au/permit/7516/Decision%20Report%20on%20Refusal/7516%20odr.pdf>.

In relation to revegetation works required by proposed conditions 3 of the draft approval decision, DWER notes that the current lease over the property expires on 31 April 2025. The DWER considers that there is a risk that the approval holder may not retain access to complete the required revegetation and associated maintenance or monitoring after this time. The DWER further notes that the proposed approval decision is valid until 31 December 2039.

If you require further information, please contact s47F on s47F or through email at s47F

Yours sincerely



s47F

**1 May 2019**

s22

**From:** s47F  
**Sent:** Monday, 24 June 2019 12:02 PM  
**To:** s22  
**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Hi s22

I have been off work sick but I would love to discuss this project with you today if at all possible?

Kind regards,

s47F

Native Vegetation Regulation  
Regulatory Services

Department of Water and Environmental Regulation  
Prime House, 8 Davidson Terrace, JOONDALUP WA 6027  
Locked Bag 10, Joondalup DC, WA 6919

s47F

| [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA)



**From:** s22  
**Sent:** Tuesday, 11 June 2019 3:35 PM  
**To:** s47F  
**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Hi s47F

It looks like it's still a great game of phone tag. I am free tomorrow at 11 am (AEST) if you could give me a call then.

Thanks,

s22

Acting Director  
Project Assessments West





Australian Government  
Department of the Environment and Energy

**From:** s47F

**Sent:** Tuesday, 11 June 2019 3:02 PM

**To:** s22

**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Hi s22

I just tried to call but it seems we are having a good game of phone tag.

Let me know when I can call again or call me back on s47F

Kind regards,

s47F

Native Vegetation Regulation  
Regulatory Services

Department of Water and Environmental Regulation  
Prime House, 8 Davidson Terrace, JOONDALUP WA 6027  
Locked Bag 10, Joondalup DC, WA 6919

s47F

| [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA)



**From:** s22

**Sent:** Friday, 7 June 2019 1:36 PM

**To:** s47F

**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Hi s47F

Thank you for the notification, my apologies for the delay in responding.

I tried to call you yesterday to discuss the request but I must have missed you. Can you please give me a call on (02) s22 I just have a couple of questions with regards to the state assessment given the history and complexities of this project.

Thanks,

s22  
Acting Director  
Project Assessments West  
Environment Standards Division  
Department of the Environment and Energy

GPO Box 787, Canberra ACT 2601

s22



---

**From:** s47F  
**Sent:** Wednesday, 29 May 2019 10:37 AM  
**To:** s22  
**Subject:** Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1)

Good Morning,

Please be advised that the Department of Water and Environment Regulation received an application to clear 13.6 hectares of native vegetation within Lot 3 on Diagram 35920 on 22 May 2019 (CPS 8500/1).

This application is currently in the validation phase of processing and the Department is in contact with the applicant in determining the legal validity of the application. Should the Delegated Officer determine that the application is legally valid, the application will be accepted and an environmental impact assessment of the proposal will commence.

I note that this clearing permit application relates to EPBC Act approval 2018/8138. I would appreciate your comments, advice and any information you have relating to the EPBC Act assessment and approval. Specifically I would appreciate a copy of your environmental impact assessment and the final approval document (with conditions as relevant).

If you have any questions about the management of this clearing permit application you can contact me on s47F or via return email. Please note I work Monday to Wednesday.

Kind regards,

s47F  
Native Vegetation Regulation  
Regulatory Services

Department of Water and Environmental Regulation

s47F

| [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA)



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s22

---

**From:** s22  
**Sent:** Wednesday, 3 July 2019 6:37 PM  
**To:** s47F  
**Cc:** s22 Gregory Manning  
**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]  
**Attachments:** 2018-8138-Final Approval-Att A-Decision Notice SIGNED.pdf; 2018-8138-Final Approval-Att C2-Recommendation Report.pdf

Hi s47F

Please find attached the Decision Notice and Recommendation Report for EPBC Act approval 2018/8138. The Department hopes that these documents will be of assistance in streamlining and aligning (where possible) the Commonwealth and State assessment of this action.

As discussed the Decision Notice is a public document, however, the Recommendation Report is being provided on the condition that it be treated as a confidential document i.e. for internal use only and not for broader publication, release or as the basis for formal decision making.

If you have any questions please let me know.

Regards,

s22  
Acting Assistant Director  
Project Assessments West  
Environment Standards Division  
Department of the Environment and Energy

GPO Box 787, Canberra ACT 2601

s22



Australian Government  
Department of the Environment and Energy

---

**From:** s47F  
**Sent:** Wednesday, 3 July 2019 10:49 AM  
**To:** s22  
**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Hi s22

Yes I can be available at 1.30pm(WST) aka 3.30pm (EST) to discuss this matter.

Can you send me your phone number and I will call you then.

Thanks

s47F

s47F  
Native Vegetation Regulation  
Regulatory Services

Department of Water and Environmental Regulation  
Prime House, 8 Davidson Terrace, JOONDALUP WA 6027  
Locked Bag 10, Joondalup DC, WA 6919

s47F  
 | [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)  
Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA)



---

**From:** s22  
**Sent:** Wednesday, 3 July 2019 8:44 AM  
**To:** s47F  
**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Hi s47F

My apologies, I was anticipating being back in the office on Monday but was out sick. Would you be free this afternoon from 3:30 pm (EST) onwards to talk.

Thanks

s22

---

**From:** s47F  
**Sent:** Monday, 1 July 2019 11:17 AM  
**To:** s22  
**Subject:** RE: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Good Morning s22

I was wondering if it would be possible to speak to you about EPBC Act approval 2018/8138 today?

Thank you

s47F  
Native Vegetation Regulation  
Regulatory Services

Department of Water and Environmental Regulation  
Prime House, 8 Davidson Terrace, JOONDALUP WA 6027  
Locked Bag 10, Joondalup DC, WA 6919

s47F

[www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)

Twitter: [@DWER\\_WA](https://twitter.com/DWER_WA)



---

**From:** s22

**Sent:** Monday, 24 June 2019 10:03 AM

**To:** s47F

**Subject:** Automatic reply: Notice of Clearing permit application (WA) relating to EPBC Act approval 2018/8138 (CPS 8500/1) [SEC=OFFICIAL]

Thank you for your message. I'm currently out of the office until Monday 1 July 2019 and will respond to your email on my return. For urgent matters please contact s22

Your message has not been auto-forwarded.

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## RECOMMENDATION REPORT

### Sand Extraction, Lot 3 Buller Road, Waroona, Western Australia (EPBC 2018/8138)

#### Recommendation

That the proposed action to clear vegetation from, and to conduct sand extraction at, Lot 3 Buller Road, Waroona, Western Australia be approved subject to the conditions specified in the decision notice at Attachment B.

#### Background

##### Description of the project and location

1. AMG (WA) Pty Ltd (the proponent) is proposing to clear approximately 14 ha of remnant vegetation from, and to conduct sand extraction at, Lot 3 Buller Road, Waroona, Western Australia (Figure 1, Attachment D). The proposed project area is within the Shire of Waroona and is approximately 100 km south of Perth. Clearing is proposed to be undertaken in two 7 ha stages. The proposed action is being undertaken as a joint venture between the Pandanus Park Aboriginal Community and AMG.

##### Description of the Environment

2. The majority of the clearing footprint is native vegetation consisting of low woodlands of Marri (*Corymbia calophylla*), Jarrah (*Eucalyptus marginata*), various Banksia species and Sheoak (*Allocasuarina fraseriana*) over sparsely distributed shrubs over grasses, herbs and leaf litter. Specifically, the vegetation of the proposed clearing footprint was identified as Vegetative Type 1 (VT1) which is described as:

*Mid open woodland to open forest of Allocasuarina fraseriana, Eucalyptus marginata and Corymbia calophylla over low open woodland to woodland dominated by Banksia attenuata, Banksia grandis and Banksia ilicifolia over mid sparse to open shrubland dominated by Xanthorrhoea preissii over low to mid sparse shrubland to shrubland dominated by Hibbertia hypericoides over low sparse to open forbland dominated by Dasypogon bromeliifolius and Desmocladus flexuosus on grey sand on lower to upper slopes and flats."*

3. The clearing footprint was originally surveyed in 2015 to assess the ecological values of the site and to determine if the vegetation was infested with the plant pathogen *Phytophthora cinnamomi*. In 2015 the remnant vegetation was rated in 'Good' to 'Very Good' condition (Figure 4, Attachment D), however, much of the native vegetation within the clearing footprint was infested with *P. cinnamomi*.
4. The clearing footprint was burnt in January 2016 during the Waroona fires. The impact of these fires and the continual deterioration caused by dieback expression on the habitat values of the project site was reassessed in November 2018 by Plantecology (Plantecology November 2018 – Appendix E, Attachment E1). The Plantecology (November 2018) survey (which covered approximately 15.41 ha) noted that the vegetation within the clearing footprint ranged from 'Completely Degraded' to 'Very Good'. Areas of 'Good' condition vegetation covered approximately 7.08 ha within the western part of the clearing footprint. Approximately 1.03 hectare of 'Very Good' condition vegetation was recorded in the central portion of the clearing footprint. The remaining areas within the eastern part of the clearing footprint were either Degraded (3.47 ha) or Completely Degraded (3.83 ha).

5. The Plantecology (November 2018) survey report therefore evidences that the vegetation condition within the clearing footprint has declined since 2015. Whilst much of the understorey is regenerating from the impacts of fire there has been canopy loss and multiple Banksia deaths due to dieback. The survey report noted that whilst *'approximately half of the clearing footprint is in 'Good' condition, the ability of the vegetation to maintain or improve on this, or regenerate its structure is severely compromised by the degree of dieback infestation. It is likely that vegetation condition within the clearing footprint will continue to decline'* [.] On this basis the January 2016 fires may have hastened the progression of the site to a post-epidemic assemblage of non-susceptible native plants and weeds reducing the ecological values of the clearing footprint.
6. The proposed project area is proximal to a number of different wetlands (Figure 1, [Attachment D](#)) including:
  - UFI 4635 Conservation Category wetland – 700 m north-east of the clearing footprint
  - UFI 4807 Conservation Category wetland – 150 m west of the clearing footprint
  - UFI 4636 Conservation Category wetland – 530 m west of the clearing footprint
  - UFI 4633 Resource Enhancement wetland – 400 m north of the clearing footprint
  - UFI 5002 Resource Enhancement wetland – 300 m north of the clearing footprint
  - UFI 5004 Multiple Use wetland – 50 m east of the clearing footprint.
7. The ecological attributes of the different wetland categories (e.g. Conservation Category) are detailed in Table 3 of the preliminary documentation ([Attachment E1](#)). Please note that the location and distance from the clearing footprint of these wetlands have been updated since the controlled action decision and so differ from that stated in the referral decision brief.

### **Controlling provisions, assessment approach and public consultation**

8. The proposed action is directly related to two earlier EPBC Act referrals: EPBC 2015/7500 and EPBC 2017/7916 both of which were being assessed under the bilateral agreement with the Western Australian Government. The proponent withdrew each referral in turn from assessment under the EPBC Act when the associated clearing permit application was refused by the Western Australian Government both on application and appeal. A third referral (this referral) was then submitted with the request that the proposed action not be assessed under the bilateral agreement. The proponent has stated that they will submit a third clearing permit application to the Western Australian Department of Water and Environmental Regulation (DWER) at the completion of the EPBC Act assessment process. The full project history for both referrals is summarised in the referral decision brief at [Attachment E6](#).
9. On 11 May 2018, the proponent's proposal to clear vegetation from, and to conduct sand extraction at, Lot 3 Buller Road, Waroona, Western Australia was determined to be a controlled action due to likely significant impacts on listed threatened species and communities (sections 18 & 18A) specifically:
  - Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*) (CBC) – endangered

- Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*) (FRTBC) – vulnerable
  - Baudin’s Black Cockatoo (*Calyptorhynchus baudinii*) (BBC) – endangered
  - Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community – Endangered
  - King Spider-orchid (*Caladenia huegelii*) – Endangered
  - Dwarf Hammer-orchid (*Drakaea micrantha*) – Vulnerable
10. At the same time, it was determined that the project would be assessed by preliminary documentation and additional information was requested from the proponent for the assessment of the relevant impacts.
  11. Also on 11 May 2018, as required by Regulation 5.12J (1) of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations), a delegate of the Minister provided a fee estimate to the proponent for the assessment of the proposed action. This fee schedule was provided for information only as the proponent considers themselves exempt from cost recovery under section 520(4C)(e)(v) of the EPBC Act.
  12. On 11 November 2018, the proponent submitted a revised preliminary documentation (Attachment E) addressing feedback provided by the Department on their first submission (9 September 2018).
  13. On 6 December 2018, the delegate issued a direction to publish the draft preliminary documentation, which was published for public comment for a minimum of 10 business days in accordance with Section 95A(3) of the EPBC Act and Regulation 16.04 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations).
  14. On 2 January 2019, the proponent notified the Department that no public comments were received on the assessment documentation during the public consultation period (Attachment E4). The completion of this process resulted in the finalised preliminary documentation at Attachment E. On the next day, the Department commenced the 40 business day period for a decision on approval in accordance with section 130(1B)(c) of the EPBC Act.

### **State/Territory Assessment and Approval**

15. The Western Australian Government has twice refused on both application and appeal to issue a clearing permit for this action on the basis that the impacts of this action, taking into context the surrounding environment, are such that no environmental offsets are sufficient to account for the habitat lost. The preliminary documentation notes that a third application for a clearing permit (Area Permit) pursuant to Section 51E of the *Environmental Protection Act 1986* (EP Act) will be submitted to DWER in due course.
16. The proponent has raised a number of issues relating to DWER’s decision-making process and the refusal to issue a clearing permit for this action. This includes allegations of misconduct by the state and claims that due diligence, procedural fairness and the state’s own assessment process were not observed during DWER’s assessment of the proposed action. The proponent is currently pursuing a number of legal avenues in relation to these allegations. The Department has advised the proponent that such matters are outside of the



remit of the Commonwealth and that the Department can only comment on and consider issues directly associated with the EPBC Act assessment of the proposed action.

## **Assessment**

### **Mandatory Considerations – section 136(1)(a) Part 3 controlling provisions**

17. The proposal was determined a controlled action under the following controlling provisions of the EPBC Act:

- Listed threatened species and ecological communities (sections 18 and 18A).

### **Listed threatened species and ecological communities (sections 18 and 18A)**

#### **Black cockatoos:**

- Carnaby's Black Cockatoo (CBC) (*Calyptorhynchus latirostris*) – endangered
- Baudin's Black Cockatoo (BBC) (*Calyptorhynchus baudinii*) – endangered
- Forest Red-tailed Black Cockatoo (FRTBC) (*Calyptorhynchus banksii naso*) – vulnerable

#### ***Species information***

18. The proposed project area is located within 1 to 2 km of the breeding range for the CBC, the modelled distribution for the FRTBC and the likely range for the BBC (these three species hereafter are collectively referred to as black cockatoos). Information on the characteristics, status and habitat requirements for black cockatoo is available in:

- *EPBC Act Referral Guidelines for Three Threatened Black Cockatoo Species, 2012* (Referral Guidelines) ([Attachment G1](#))
- *Carnaby's Cockatoo (Calyptorhynchus latirostris) Recovery Plan, 2013* ([Attachment G2](#))
- *Forest Black Cockatoo (Baudin's Cockatoo Calyptorhynchus baudinii and Forest Red-tailed Black Cockatoo Calyptorhynchus banksii naso) Recovery Plan* ([Attachment G3](#)).

#### ***Black cockatoo habitat***

19. A black cockatoo habitat assessment was undertaken within the clearing footprint in 2015. This assessment was undertaken prior to the clearing footprint being burnt in January 2016. The 2015 assessment identified 73 potential breeding trees<sup>1</sup> within the project area, 19 of which were identified as potentially having large enough hollows to support black cockatoo breeding (according to ground based observations only). The entire clearing footprint was considered black cockatoo foraging habitat with evidence of foraging recorded; most notably chewed Banksia cones indicating CBC and/or BBC foraging and chewed Marri fruits indicating CBC and/or FRTBC foraging.

20. A reassessment of the habitat values of the clearing footprint for black cockatoos was undertaken in 2018 by Greg Harewood (Harewood 2018 – Appendix B, [Attachment E1](#)), to establish the magnitude of impacts to the clearing footprint from fire and dieback in the

<sup>1</sup> The size of a tree is a good indication of its hollow-bearing potential. Trees with a diameter at breast height of 500 mm or more (or 300 mm for Salmon Gum and Wandoo) (i.e. potential breeding trees) can potentially form a suitable nesting hollow within a couple of decades.

intervening years since the original survey. All trees previously identified as potential black cockatoo breeding trees were re-examined using binoculars or an aerial drone. This assessment found that 25 of the original 73 potential breeding trees were either totally burnt, almost totally burnt or fallen over. Of the remaining 48 potential breeding trees only one was found to potentially have a hollow large enough to support breeding. All other potential large hollows previously identified in 2015 were either confirmed to be too small to be used for breeding (i.e. the entrance diameter was too narrow) or absent altogether as a result of the fire in January 2016.

21. The single large hollow identified was later confirmed by drone to be too shallow to support black cockatoos nesting. In addition, a large bee hive in close proximity to the hollow further reduces the probability of the hollow being utilised for breeding. No evidence of use (e.g. chew marks) was recorded. On this basis the Department considers it unlikely that the proposed project area supports black cockatoo breeding.
22. No evidence of black cockatoos roosting within the survey area was observed during either the 2015 or 2018 surveys. This is likely due to the shortage of large trees with established canopies within the project area, which are required to support this biological function. On this basis the Department considers it unlikely that the proposed project area supports black cockatoo roosting.
23. The Harewood (2018) survey observed evidence of black cockatoo foraging, attributed to FRTBCs, in the form of chewed Marri fruits. However, unlike the 2015 survey no evidence of Banksia foraging was recorded. The lack of evidence of Banksia foraging may be related to the significant reduction in Banksia coverage since 2015 as a result of fire and dieback. On this basis the Department considers that the proposed project area supports FRTBC foraging and that, on a precautionary basis noting the findings of the original survey, the proposed project area potentially supports low level CBC and BBC foraging.
24. It is important to note that the Harewood (2018) survey supports the findings of the Plantecology (November 2018) survey with regards to the decline in habitat quality of the project area, noting that:

*'The foraging habitat within survey area, primarily represented by marri, jarrah and banksia, also appears to have been severely impacted on by the 2016 fire with many tree deaths evident. While the vegetation is showing signs of regrowth its ability to regenerate to a similar quality may be hindered by the existing presence of dieback, without intensive intervention.'*

25. The project area forms a part of an isolated block of native vegetation surrounded by mostly cleared land between the Yalgorup National Park in the west and the Whicher Scarp in the east (Figure 2, [Attachment D](#)). Consequently, the project area (and the surrounding vegetation) potentially provides an important habitat linkage for black cockatoos travelling across the largely cleared areas in the region.

### *Impacts*

26. The proposed action will clear 14 ha of black cockatoo foraging habitat and 48 potential breeding trees.
27. As noted above, the proposed action is proximal to a number of wetland systems. The proposed action may cause deterioration to the quality of the surface water flowing to these wetlands through sedimentation processes (erosion) or chemical contamination (from chemical storage or use), which in turn may adversely affect any black cockatoos that

utilise these watering points. Intersection of the groundwater table during mining may also impact on these wetlands if there is hydrological connectivity between the wetlands and the water table.

#### *Avoidance and mitigation measures*

28. The maximum clearing figure provided is a result of amendments in the design to reduce the amount of clearing from 38 ha (as identified in EPBC 2015/7500) to 14 ha (as identified in EPBC 2018/8138).
29. The proponent has proposed a number of management measures to mitigate impacts of construction activities to black cockatoos and their habitat. These management measures have been included in the proposed conditions of approval with the requirement to develop a Buller Road Environmental Management Plan (BREMP) for approval of the Minister prior to clearing (Condition 3). At a minimum, the BREMP will detail measures to be implemented to: control site access, weeds and dieback, prevent injury or mortality to black cockatoos during clearing, delineate the clearing footprint to prevent unauthorised clearing and water management measures to prevent intersection of groundwater during sand extraction.
30. Of particular concern is the potential spread of *P. cinnamomi*. Spread of the plant pathogen *P. cinnamomi* has been declared a key threatening process to native vegetation under the EPBC Act. The Department's *Threat abatement plan for disease in natural ecosystems caused by Phytophthora cinnamomi* (January 2014) (Attachment G6) outlines the key impacts of this pathogen.
31. Many species of native vegetation that are a foraging resource for black cockatoos are susceptible to dieback caused by the disease. Noting that the proposed conservation area (discussed further below) is adjacent to the clearing footprint, preventing the spread of the plant pathogen to adjacent patches of vegetation is of particular importance. Appropriate hygiene controls, including the careful management of topsoil and waste products during sand extraction will be required. The BREMP (required by Condition 3) will detail the dieback management requirements. The proposed action cannot commence unless the BREMP is approved by the Minister.
32. The proponent proposes to enforce a 150 m buffer between the clearing footprint and the nearest Conservation Category wetland. In addition, a 2 m separation between the pit floor and the water table will be maintained at all times during mining (as required by Condition 3). The separation distance will be achieved by determining the historical maximum groundwater levels (based on DWER groundwater monitoring data from bores located in proximity to the subject site) and verified via annual surveys to ensure that the 2 m separation is maintained.
33. The preliminary documentation notes that there are no surface drainage lines within the proposed clearing footprint as all excess water infiltrates the highly permeable sand. During excavations the proponent proposed to design the pit such that runoff within the excavation area will be contained and directed to a central low point to enable onsite infiltration. The proponent will also be required by Condition 3 to ensure that no chemical storage or use of chemicals (including fuel storage, refuelling or vehicle servicing) will occur within the clearing footprint. On this basis, indirect impacts on nearby water resources that may be utilised by black cockatoos are unlikely, provided the proponent implements the proposed conditions of approval.



*Acceptability*

34. The proposed avoidance and mitigation measures, supported by conditions to regulate the implementation of key measures (Conditions 1 to 3), will result in impacts from the proposal on black cockatoos that the Department considers are acceptable; however, the proposal will also result in a residual significant impact that needs to be offset.

*Offset*

35. Given that the foraging value of the clearing footprint for black cockatoos is declining over time regardless of whether the proposed clearing transpires, it is difficult to quantify the long term impact of the proposed action (but it is currently 14 ha of black cockatoo foraging habitat). However, noting that the proposed clearing footprint potentially provides an important habitat linkage for black cockatoos travelling across the largely cleared areas in the region (at least in the short term) and in consideration of the precautionary principle, the Department considers that the proposed action is likely to have a residual significant impact to black cockatoos by both modifying/destroying the availability or quality of habitat and reducing the area of occupancy.
36. To offset this residual significant impact the proponent proposes to acquire land adjacent to the proposed action to manage and protect for conservation. In particular, the proponent proposes to acquire 106 ha of remnant vegetation within the remaining proportion of Lot 3 Buller Road (Figure 1, [Attachment D](#)).
37. In September 2015, Woodman Environmental (2015) surveyed Lot 3 Buller Road, including the area proposed to be acquired for use as an offset. The proposed conservation area was mapped as containing the same vegetation units as the impact area (VT1), as well as additional vegetation units (VT 2-5) associated with wetlands on low-lying areas including depressions and flats.
38. VT1 contains suitable foraging species for black cockatoos including Marri, Jarrah and various Banksia species. The preliminary documentation notes that the total area of VT1 vegetation within the proposed offset is 72.5 ha. The remaining 33.5 ha does not provide any foraging habitat for black cockatoos as these areas are associated with wetlands and low-lying areas that do not contain any suitable foraging species. Consequently this 33.5 ha area has not been included in the offset calculations, however, it is important to note that this additional area whilst not providing any foraging habitat to black cockatoos increases the overall value of the conservation area by providing a vegetative buffer, a potential seasonal source of water and increasing ecosystem resilience through habitat diversity.
39. The condition of the proposed 106 ha conservation area in 2015 ranged from 'Degraded' in the northern half of the subject area to 'Very Good' in the southern half, with some smaller areas rated as being in 'Good' condition. In late 2018, a reassessment of the proposed conservation area was undertaken by Plantecology (December 2018) ([Attachment E3](#)) to ascertain whether the vegetation condition within the subject area had returned, or was returning, to that which existed prior to the fire of January 2016, particularly given the decline in vegetative quality observed in the project area.
40. The condition of the vegetation in the southern half of the subject area was again rated as 'Good' (5 ha) to 'Very Good' (36 ha). The vegetation in this area is recovering its structure and diversity following the fire with a minor infestation of mainly non-aggressive weeds. Many native plants were observed to be resprouting and seedlings of *B. attenuata* were common. The vegetation of the northern half of the site, however, was mostly in a

'Completely Degraded' to 'Degraded' condition (31.5 ha). The original vegetation structure has been largely lost and the understorey is dominated by weed species. This area had been rated as 'Degraded' by Woodman Environmental (2015) and the fire may have adversely affected the vegetation even further.

41. Whilst degraded, the northern section still contains black cockatoo foraging species (similar to the degraded sections of the clearing footprint) and thus provides some ecological services to black cockatoos. In support of this is evidence of foraging recorded in the degraded section of the proposed clearing footprint during the Harewood (2018) survey. In addition, the 2018 survey of the offset site noted that some of the areas rated as 'Degraded' contained an upper vertical structure of sufficient quality to be rated as 'Good' but for the weed dominated understorey. Given that the vertical structure is of greater importance to black cockatoo foraging than the weeds which provide no foraging value, the Department considers that these degraded areas are still likely to be of some minor ecological value to black cockatoos.
42. Table 1 below details the vegetative condition of the proposed clearing footprint against the proposed conservation area to demonstrate relative quality of the vegetation to be cleared against the vegetation to be protected, managed and conserved.

**Table 1: Vegetative Quality by Area**

Quality	Project Area	Conservation Area
Completely Degraded to Degraded	7.3 ha	31.5 ha
Good	7.08 ha	5 ha
Very Good	1.03 ha	36 ha

43. Noting the better quality of the vegetation, the presence of water resources and that the area is showing signs of recovery relative to the proposed clearing footprint which is continuing to degrade, the southern section of the proposed conservation area is likely to provide better black cockatoo habitat across a larger area than the impact site.
44. The proposed conservation area is currently being impacted by a number of threatening processes including dieback, illegal access by vehicles, logging of potential breeding trees and the dumping of waste. These activities are likely to further degrade the black cockatoo habitat in the area if left unchecked.
45. A condition of approval (Condition 3) requires that the proponent develop a Buller Road Environmental Management Plan (BRMP). This plan details the action that will be implemented by the proponent to protect and promote the resilience of black cockatoos and their habitat within the conservation area and address the threatening processes (discussed in Paragraph 44) that are currently impacting the conservation area. At a minimum the BREMP will include: measures to prevent illegal land use practices (e.g. logging, dumping of wastes etc.), rehabilitation actions to remediate the impacts of illegal land use, access controls, and weed/pathogen management activities.
46. The preliminary documentation ([Attachment E1](#)) notes that the proponent will enter into a conservation covenant with the Commissioner of Soil and Land Conservation under Section 3 of the *Soil and Land Conservation Act 1945*. The purpose of the conservation

covenant is to protect and manage the native vegetation within the offset area in such a way as to retain and promote its growth. Given that the proponent has not yet acquired the rights to the proposed offset area, a condition of approval (Condition 4) requires that the proponent obtains and then covenants the proposed offset area before the action can commence.

47. The proposed conservation area was tested against the Department's Offsets Assessment Guide, to determine the level of impact to black cockatoos that is offset by the proposed offset. According to the Department's calculator, 116.02 % of the impacts of the action will be offset by the proposed direct offset package. Offset guide calculations can be found at [Attachment F5](#).
48. Given the above, the Department recommends that you accept that the proposed offset conditions will ensure the requirements of the Offset Policy ([Attachment G10](#)) are met.

### *Conclusion*

49. The Department considers that the likely impacts of the proposed action will be acceptable, provided the proponent implements the proposed conditions to mitigate potential impacts of clearing activities on black cockatoos (Conditions 1 to 3).
50. As the sand mine will clear 14 ha of foraging habitat for all three species of black cockatoo, the proposed action is likely to have a residual significant impact on the species. The Department therefore considers it necessary and convenient to require an offset to compensate for this residual significant impact (Condition 3 and 4).

### Banksia Woodlands of the Swan Coastal Plain ecological community – Endangered

#### *Background*

51. According to the *Approved Conservation Advice (incorporating listing advice) for the Banksia Woodlands of the Swan Coastal Plain ecological community* ([Attachment G7](#)), the Banksia Woodlands TEC is associated with the Swan Coastal Plain of south-west Western Australia and features a prominent tree layer of Banksia species, most commonly *B. attenuata* and/or *B. menziesii*, with scattered eucalypts and other tree species often present within or emerging above the tree canopy. It has an understorey comprised of a species-rich mix of sclerophyllous shrubs, graminoids and forbs. The TEC is characterised by high endemism and considerable localised variation in species composition across its range, resulting in a number of floristic sub-communities (Floristic Community Types) within the broader national ecological community.
52. The Woodman Ecological 2015 survey notes that the vegetation of the clearing footprint (specifically VT1) appears to be related to SCP [FCT] 21c 'Low lying *Banksia attenuata* woodlands or shrublands' or more likely SCP21a 'Central *Banksia attenuata*, *Eucalyptus marginata* woodland'. Both SCP21a and SCP21c are listed in the approved Conservation Advice for the Banksia Woodlands TEC as floristic community types that can be considered as the Banksia Woodlands TEC (provided the full suite of diagnostic criteria detailed in the approved Conservation Advice are met).
53. The community SCP21a is not listed at the state level. SCP21c is listed as a Priority 3 TEC under state legislation. Under state process, 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. Priority 3 TECs are known from several locations and

do not appear to be under immediate threat, however, the TEC needs to be studied further to determine its full range and potential threats.

54. On 12 November 2018, Plantecology (November 2018) undertook a survey of the clearing footprint to assess whether the vegetation of the clearing footprint meets the diagnostic criteria to be considered the Commonwealth listed TEC. Specifically, whether the vegetative condition of the site still meets the required condition thresholds, given that the condition of the clearing footprint has declined since 2015 due to fire and dieback.
55. Plantecology (November 2018) identified that the condition of the vegetation within the clearing footprint ranged from 'Completely Degraded' to 'Very Good'. Areas of 'Good' condition vegetation covered approximately 7 ha within the western part of the clearing footprint. These areas still retain some of their original structure with native shrubs and ground species present in the understorey, but there are obvious signs of disturbance.
56. Approximately one hectare of 'Very Good' condition vegetation was recorded in the central portion of the clearing footprint. As only one dead *B. attenuata* individual was observed in this patch, at this local scale, it may not ordinarily be considered as Banksia woodland. As the patch is contiguous with the surrounding Banksia woodland, however, the proponent has included this area in the calculation of the total area of the Banksia Woodland TEC within the clearing footprint.
57. Based on these survey results, it is estimated that the clearing footprint contains approximately 8.11 ha of vegetation of sufficient quality to be the Banksia Woodlands TEC. However, as noted above with further Banksia deaths anticipated and noting the likely continual decline of vegetative quality in the clearing footprint, the area considered the Banksia Woodland TEC is likely to reduce over time regardless of clearing activity.

#### *Impacts*

58. The proposed action will clear 8.11 ha of the Banksia Woodlands TEC.
59. The proposed action may indirectly impact on adjacent patches of the Banksia Woodlands TEC through edge effects and by facilitating the spread of *P. cinnamomi*, which is identified as a key threat to this ecological community in the approved Conservation Advice.
60. The preliminary documentation notes that a 100 m wide powerline corridor (which is cleared on an annual basis) and a previously mined sand extraction area are located between the western boundary of the clearing footprint and vegetation likely to contain the TEC within the remainder of Lot 3 Buller Road (see Figure 1, [Attachment D](#)). Furthermore, there are no vegetated linkages to the south or east of the clearing footprint. On this basis the proposed action is unlikely to further fragment local patches of the Banksia Woodlands TEC.
61. Sand extraction may change surface water flows and/or quality and may impact on groundwater quality/availability if the water table is intersected during mining. This could potentially alter the hydrological regime that adjacent patches of Banksia Woodlands TEC is reliant on.

#### *Avoidance and mitigation measures*

62. The preliminary documentation notes that sand extraction is one of the few industries deemed compatible within a Priority 1 Public Drinking Water Source Area under DWER's Water Quality Protection Note No. 25. This is on the basis that sand mining typically has little to no impact on groundwater.



63. As noted above in Paragraph 32 to 33, the proposed clearing footprint is unlikely to alter surface water flows or impact on groundwater due to the design of the pit, the lack of surface drainage lines due to the high soil permeability of the clearing footprint and the conditional requirements to both maintain a buffer between the clearing footprint and nearby wetlands (Condition 2) and maintain a minimum 2 m separation between the pit floor and the water table (Condition 3). On this basis, indirect impacts to adjacent patches of Banksia Woodlands TEC due to changes in hydrology are unlikely, provided the proponent implements the proposed conditions of approval.
64. The proponent has proposed a number of management measures to mitigate impacts of construction activities to adjacent patches of Banksia Woodlands TEC. These management measures have been included in the proposed conditions of approval with the requirement to develop a BREMP for approval of the Minister prior to clearing (Condition 3). At a minimum, the BREMP will detail measures to be implemented to: control site access, weeds and *P. cinnamomi*, delineate the clearing footprint to prevent unauthorised clearing and water management measures to prevent intersection of groundwater during sand extraction.
65. Of particular concern is the potential spread of *P. cinnamomi* which is identified in the Banksia Woodlands TEC Conservation Advice as a key threat to this ecological community. As noted in Paragraph 29 to 31 above the BREMP will detail the hygiene controls required to prevent the introduction and/or spread of this plant pathogen to adjacent patches of vegetation. The proposed action cannot commence unless the BREMP is approved by the Minister.

#### *Acceptability*

66. Noting the small area of Banksia Woodlands TEC to be cleared and the fact that the area considered as the Banksia Woodland TEC within the clearing footprint is likely to reduce over time, the Department considers that the impacts to the Banksia Woodlands TEC as a result of the proposed action are acceptable; however, the proposal will also result in residual significant impacts that need to be offset.

#### *Offset*

67. Given that the area considered as the Banksia Woodlands TEC is declining over time, regardless of whether the proposed clearing transpires, it is difficult to quantify the long term impact of the proposed action. However, noting that the proposed clearing footprint still contains vegetation that meets the condition thresholds to be considered as the EPBC Act listed threatened ecological community and in consideration of the precautionary principle, the Department considers that the proposed action is likely to have a residual significant impact to the Banksia Woodlands TEC by: modifying/destroying the availability or quality of habitat and reducing the area of occupancy.
68. To offset this residual significant impact the proponent proposes to acquire land adjacent to the proposed action to manage and protect for conservation. In particular, the proponent proposes to acquire 106 ha of remnant vegetation within the remaining proportion of Lot 3 Buller Road (Figure 1, [Attachment D](#)).
69. In September 2015, Woodman Environmental (2015) surveyed Lot 3 Buller Road, including the area proposed to be acquired for use as an offset. The survey noted that the vegetation of the proposed conservation area appears to be related to SCP [FCT] 21c 'Low lying *Banksia attenuata* woodlands or shrublands' or more likely SCP21a 'Central *Banksia*

*attenuata*, *Eucalyptus marginata* woodland'. Both SCP21a and SCP21c are listed in the approved Conservation Advice for the Banksia Woodlands TEC as floristic community types that can be considered the Banksia Woodlands TEC.

70. In late 2018, a reassessment of the proposed conservation area was undertaken to ascertain whether the vegetation condition within the proposed conservation area was still of good enough quality for its size to be considered the Banksia Woodland TEC. This survey noted that the condition of the vegetation in the southern half of the subject area was again rated as 'Good' (5 ha) to 'Very Good' (36 ha). Given that the areas of 'Good' vegetation was divided into small patches interspersed between areas of Completely Degraded to Degraded habitat, on a precautionary basis, the proposed conservation area is considered to contain approximately 36 ha of Banksia Woodland TEC in better condition than the impact site.
71. The proposed conservation area is currently being impacted by a number of threatening processes including dieback, illegal access by vehicles, logging of potential breeding trees and the dumping of waste. These activities are likely to further degrade Banksia Woodland TEC in the area if left unchecked.
72. Noting these threatening process, a condition of approval (Condition 3) requires that the proponent develop a Buller Road Environmental Management Plan (BRMP). This plan details the action that will be implemented by the proponent to protect and promote the resilience of the Banksia Woodlands TEC within the conservation area. At a minimum the BREMP will include: measures to prevent illegal land use practices (e.g. logging, dumping of wastes etc.), rehabilitation actions to remediate the impacts of illegal land use, access controls, and weed/pathogen management activities.
73. The preliminary documentation ([Attachment E1](#)) notes that the proponent will enter into a conservation covenant with the Commissioner of Soil and Land Conservation under Section 3 of the *Soil and Land Conservation Act 1945*. The purpose of the conservation covenant is to protect and manage the native vegetation within the offset area in such a way as to retain and promote its growth. Given that the proponent has not yet acquired the rights to the proposed offset area, a condition of approval (Condition 4) requires that the proponent obtains and then covenant the proposed offset area before the action can commence.
74. The proposed conservation area was tested against the Department's Offsets Assessment Guide, to determine the level of impact to the Banksia Woodlands TEC that is offset by the proposed offset. According to the Department's calculator, 104.98 % of the impacts of the action will be offset by the proposed direct offset package. Offset guide calculations can be found at [Attachment F5](#).
75. Given the above, the Department recommends that you accept that the proposed offset conditions will ensure the requirements of the Offset Policy ([Attachment G10](#)) are met.

### Conclusion

76. The Department considers that the likely impacts of the proposed action will be acceptable, provided the proponent implements the proposed conditions to mitigate potential impacts of clearing activities on the Banksia Woodlands TEC (Condition 1 to 3).
77. As the proposal will clear 8.11 ha of Banksia Woodlands TEC, the proposed action is likely to have a residual significant impact on the ecological community. The Department

therefore considers it necessary and convenient to implement conditions that will offset this residual significant impact (Condition 3 to 4).

#### Threatened Flora:

- King Spider-orchid (KSO) (*Caladenia huegelii*) – Endangered
- Dwarf Hammer-orchid (DHO) (*Drakaea micrantha*) – Vulnerable

#### *Background*

78. According to the *Grand Spider Orchid (Caladenia huegelii) Recovery Plan (Attachment G8)*, the KSO occurs in areas of mixed woodland of Jarrah (*Eucalyptus marginata*), Candlestick Banksia (*B. attenuata*), Holly Banksia (*B. ilicifolia*) and Firewood Banksia (*B. menziesii*) with scattered Sheoak (*Allocasuarina fraseriana*) and Marri (*Corymbia calophylla*) over dense shrubs while favouring areas of dense undergrowth. Threats to the species include habitat clearing, fragmentation and degradation, inappropriate fire regimes and weed invasion.
79. According to the *Approved Conservation Advice for Drakaea micrantha (Dwarf Hammer-orchid) (Attachment G9)* the DHO is usually found in cleared fire breaks or open sandy patches that have been disturbed, and where competition from other plants has been removed. The DHO occurs in infertile grey sands, in Banksia, Jarrah and Common Sheoak woodland or forest. It is often found under thickets of Spearwood (*Kunzea ericifolia*). The main identified threat to the DHO is fire between June and early October, when its above ground parts and replacement tuber are actively growing.
80. Departmental mapping indicates the KSO has been recorded approximately 800 m from the project area, within the Buller Nature Reserve, whereas the nearest known occurrence of the DHO is approximately 15 km to the northwest of the project area.

#### *Controlled Action Decision*

81. Whilst neither of the two listed threatened orchid species were identified during the Flora and Vegetation Survey, these orchids are cryptic and difficult to identify particularly if the survey is conducted outside of the species' flowering period. Noting that the survey was undertaken over one day in May 2015, which is outside the flowering season of both the KSO and DHO, the survey timing and intensity was considered inadequate to detect the presence of orchid taxa.
82. Whilst the State's Clearing Permit Decision Report (CPS 7516/1 related to the bilateral assessment of the withdrawn proposal EPBC 2017/7916 – Attachment E5) referenced a Level 2 Flora and Vegetation Survey (Woodman Environmental 2015), which undertook targeted surveys for orchids from 22 to 25 September 2015, these survey results were not provided to the Department. In addition, from the small amount of information available in the Clearing Permit Decision Report, it appeared that the survey did not cover all areas proposed to be cleared. Noting these information gaps it was determined at the referral stage that additional clarification on the likely presence of these orchid species within the clearing footprint was required. At that time this included the requirement to undertake additional targeted surveys for the KSO and DHO.
83. However, following the provision of the Woodman Environmental 2015 survey report (Attachment E2) and confirmation that this orchid assessment covered the entire clearing footprint (and a further 204 ha within Lot 3 Buller Road), the Department advised the proponent (Attachment F6) that this survey report coupled with a desktop analysis of the

likely presence of the KSO and DHO within the proposed project area would be sufficient to address the Department's concerns.

### *Likely Presence*

84. Woodman Environmental undertook targeted surveys for orchids from 22 to 25 September 2015. The Clearing Permit Decision Report notes that this is an appropriate time to survey in the Swan Coastal Plain Bioregion, as the majority of the orchid taxa in this region are in flower at this time. The Department agrees with this statement and notes that both the KSO and DHO flowers during this period. The Woodman Environmental Survey (2015) consisted of a desktop assessment, a reconnaissance survey followed by a detailed field survey. No threatened orchid species was recorded during the survey ([Attachment E2](#)).
85. The KSO Recovery Plan ([Attachment G8](#)) notes that the species prefers a dense undergrowth and a high moisture, shade and organic substrate to support their symbiotic orchid mycorrhizae. Given the impacts of fire and the changes in the structure of the habitat caused by dieback (the KSO Recovery Plan specifically notes that the opening up of the canopy due to dieback is likely to severely impact on the KSO), the necessary abiotic and biotic requirements for the KSO are likely to be absent from the clearing footprint. Given this and noting the result of the Woodman Environmental 2015 survey ([Attachment E2](#)), the Department considers it unlikely that the KSO occurs within the clearing footprint.
86. The Department's SPRAT profiles notes that the DHO is only known from 32 small, scattered populations and that the species has a very low area of occupancy. Whilst the proposed clearing footprint contains habitat potentially suitable for the species, given the distance to the nearest known occurrence of the DHO (approximately 15 km to the northwest), the small area of occupancy for the species and noting the result of the Woodman Environmental 2015 survey ([Attachment E2](#)), the Department considers it unlikely that the DHO occurs within the project area.

### *Conclusion*

87. Noting the above, specifically the low likelihood of these listed threatened orchids species occurring within the project area, the Department considers that the proposed action will not impact the KSO or the DHO.

### **Considerations for Approval and Conditions**

#### **Mandatory considerations – section 136(1)(b) Economic and social matters**

88. The preliminary documentation notes that the proposed action is a joint venture between AMG and Pandanus Park Aboriginal Corporation and that the proposed development will be used to provide training and employment opportunities to indigenous people.
89. The proponent notes that they have received letters of support for their action from
- Minister for Indigenous Affairs
  - Peel Development Commission
  - Ms Josie Farrer – Member for the Kimberly
  - Department of Aboriginal Affairs



- Minister for Employment, Women and Assisting the Prime Minister for the Public Service;
- Department of Training and Workforce Development.

**Factors to be taken into account – section 136(2)(a) Principles of ecologically sustainable development**

90. The principles of ESD, as defined in Part 1, section 3A of the EPBC Act, are:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted.

91. In formulating this recommendation, the Department has taken into account the principles of ecologically sustainable development. In particular:

- This report and the assessment documentation provided information on the long-term and short-term economic, environmental, social and equitable considerations that are relevant to the decision.
- Any lack of certainty related to the potential impacts of the project is addressed by conditions that restrict environmental impacts, impose strict monitoring and adopt environmental standards which, if not achieved, require the application of response mechanisms in a timely manner to avoid adverse impacts.
- The proposed conditions will ensure protection of EPBC listed species and communities. Those conditions allow for the project to be delivered and operated in a sustainable way to protect the environment for future generations and preserve EPBC listed species and communities in perpetuity.
- The Department has considered the importance of conserving biological diversity and ecological integrity in relation to all of the controlling provisions for this project, and the advice provided within this document reflects that consideration.
- The Department's advice includes reference to and consideration of a range of information on the economic costs, benefits and impacts of the project.

**Factors to be taken into account – section 136(2)(bc) – preliminary documentation**

92. In accordance with section 136(2)(bc)(i), the documents given to the Minister under section 95B(1) are included in the proposed approval briefing package. These documents consist of:

- referral submitted to the Department on 2 January 2018
- preliminary documentation received by the Department on 11 November 2018
- notice advising of no public submissions on preliminary documentation received by the Department on 2 January 2019.

93. In accordance with section 136(2)(bc)(ii), this document forms the report relating to the action given to the Minister in accordance with section 95C.

#### **Person's environmental history – section 136(4)**

94. In accordance with section 136(4) the Minister may also consider whether the person proposing to take the action is a suitable person to be granted an approval, having regard to the person's history in relation to environmental matters and if the person is a body corporate, the history of its executive officers and if relevant, the history of the parent company and its executive officers in relation to environmental matters.

95. On 20 March 2019, the Department's Office of Compliance ([Attachment F3](#)) advised that there are no significant adverse environmental history findings against the proponent or any associated companies.

96. As the Department is not aware of any adverse environmental history associated with the proponent, there are no reasons to believe the company will not comply with the proposed conditions of approval.

#### **Minister not to consider other matters - section 136(5)**

97. In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must not consider any matters that the Minister is not required or permitted, by Subdivision B, Division 1, Part 9 of the EPBC Act, to consider.

#### **Considerations in deciding on condition – section 134**

98. In accordance with section 134(1), the Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

- (a) protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
- (b) repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).

99. As detailed in the Assessment section above, all recommended conditions attached to the proposed approval are necessary or convenient to protect, repair and/or mitigate impacts on a matter protected by provision of Part 3 for which this proposed approval has affect.

100. In accordance with section 134(4), in deciding whether to attach a condition to an approval the Minister must consider:

- (a) any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a State or self-governing Territory or another law of the Commonwealth on the taking of the action;

- (aa) information provided by the person proposing to take the action or by the designated proponent of the action;
- (b) the desirability of ensuring as far as practicable that the condition is a cost effective means for the Commonwealth and a person taking the action to achieve the object of the condition.
101. Regarding section 134(4)(a), the Department notes that the proponent does not yet have a native vegetation clearing permit issued under section 51E of the *Environmental Protection Act 1986* (WA).
102. The information provided by the person proposing to take the action has been considered in accordance with section 134(4)(aa). Documentation provided by the person taking the action is at Attachment E1 of this briefing package. A letter inviting comments from the person proposing to take the action is at Attachment C for your signature. You will need to consider any comments received in making your final approval decision.
103. Regarding section 134(4)(b), the Department considers that the conditions proposed are a cost effective means of achieving their purpose of avoiding, mitigating or offsetting the impacts of the proposed action on black cockatoos and the Banksia Woodlands TEC. The proposed conditions are based on material provided by the person proposing to take the action and was prepared in consultation with the Department.

#### **Consideration of Condition-setting Policy**

104. The Department has considered the likely scope and severity of the impacts to matters of national environmental significance (MNES), and the proposed avoidance and mitigation measures, and determined that it is likely the proposed action will result in a significant residual adverse impact on black cockatoos and Banksia Woodlands TEC. In addition, the Department notes that WA Government has not assessed the proposed action.
105. Accordingly the Department considers that it is necessary and convenient to apply approval conditions to this project, as outlined in Attachment B of the proposed approval brief. The Department recommends the implementation of Conditions 1 to 4 in the proposed approval because they will: protect, mitigate and offset the impacts of clearing on black cockatoos and the Banksia Woodlands TEC.
106. In applying this analysis, the Department has had regard to the EPBC Act Condition-setting Policy (2015).

#### **Requirements for decisions about listed threatened species and communities – section 139**

##### International Conventions

107. Subsection 139(1)(a) requires that any decision to approve a proposed action for which listed threatened species and communities is a controlling provision must not be inconsistent with the *Convention on Biological Diversity* (CBD), the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) and *Convention on the Conservation of Nature in the South Pacific* (APIA Convention).
108. These conventions can be accessed at:
- <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1993/32.html> (CBD)

- <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1976/29.html> (CITES)
- <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1990/41.html> (APIA Convention)

#### *The Biodiversity Convention*

109. The objectives of the Biodiversity Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.
110. The recommendations of the assessment report (Attachment A) are not considered by the Department to be inconsistent with the Biodiversity Convention, which promotes environmental impact assessment (such as this process) to avoid and minimise adverse impacts on biological diversity. The Department has also given particular consideration to an appropriate combination of avoidance and mitigation measures for the management of species potentially impacted by the proposed action.

#### *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*

111. CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The recommendations are not inconsistent with CITES as the proposed action does not involve international trade.

#### *Convention on the Conservation of Nature in the South Pacific (APIA Convention)*

112. The APIA Convention encourages the creation of protected areas which together with existing protected areas will safeguard representative samples of the natural ecosystems occurring therein (particular attention being given to endangered species), as well as superlative scenery, striking geological formations, and regions and objects of aesthetic interest or historic, cultural or scientific value.
113. The APIA Convention was suspended with effect from 13 September 2006. While this Convention has been suspended, Australia's obligations under the Convention have been taken into consideration. The recommendations are not inconsistent with the Convention which has the general aims of conservation of biodiversity.

#### Recovery Plans and Threat Abatement Plans

114. Subsection 139(1)(b) requires that any decision to approve a proposed action for which listed threatened species and communities is a controlling provision must not be inconsistent with a recovery plan or threat abatement plan.
115. The recovery plans relevant to those species impacted by the proposed action and for this proposed approval decision are:

- Department of Parks and Wildlife (2013). *Carnaby's Cockatoo* (*Calyptorhynchus latirostris*) *Recovery Plan*. Department of Parks and Wildlife, Perth, Western Australia. Available from: <http://www.environment.gov.au/biodiversity/threatened/publications/recovery/calyptorhynchus-latirostris-recovery-plan> (Attachment G2).



- Chapman, T. (2008). *Forest Black Cockatoo (Baudin's Cockatoo Calyptorhynchus baudinii and Forest Redtailed Black Cockatoo Calyptorhynchus banksii naso) Recovery Plan*. Department of Environment and Conservation, Western Australia. Available from: <http://www.environment.gov.au/resource/forest-black-cockatoo-baudin%E2%80%99s-cockatoo-calyptorhynchus-baudinii-and-forest-red-tailed> (Attachment G3).
- Department of Environment and Conservation (2009). *Grand Spider Orchid (Caladenia huegelii) Recovery Plan*. Canberra, ACT: Commonwealth of Australia. Available from: <http://www.environment.gov.au/resource/grand-spider-orchid-caladenia-huegelii-recovery-plan> (Attachment G8)

This recommendation report provides a discussion on the recovery plan with respect to the black cockatoos. Based on the commitments of the proponent (Attachments E1), and on the conditions imposed by the Department in Attachment B of this proposed approval decision package, the Department considers the proposed action is not inconsistent with these recovery plans.

116. The threat abatement plan relevant to those species impacted by the proposed action and for this proposed approval decision is:

- Department of the Environment and Energy (2018). *Threat abatement plan for disease in natural ecosystems caused by Phytophthora cinnamomi*. Canberra, ACT: Commonwealth of Australia. Available from: <http://www.environment.gov.au/biodiversity/threatened/publications/threat-abatement-plan-disease-naturalecosystems-caused-phytophthora-cinnamomi-2018> (Attachment G6).

This recommendation report provides a discussion on this TAP with respect to black cockatoos and the Banksia Woodlands TEC. Considering the commitments of the proponent and the requirements of the BREMP (Condition 3) which necessitate the proponent to implement appropriate hygiene controls to prevent the plant pathogen's spread, the Department considers that the proposed action is not inconsistent with this TAP.

117. The Department has considered all relevant recovery plans and threat abatement plans and is of the view that approval of this proposed action would not be inconsistent with the above obligations.

118. The Department's Species Listing Information and Policy Section's weekly update indicates that there are no imminent recovery plans, threat abatement plans or delisting decisions which are relevant to this proposed decision (Attachment F1 – dated 29 March 2019)

119. The attached recovery and threat abatement plan have been reviewed to confirm that they are the most recent versions of these documents.

### Conservation Advice

120. Subsection 139(2) of the EPBC Act requires that any decision to approve a proposed action for which listed threatened species and communities is a controlling provision must have regard to any approved conservation advice for the species or community.

121. The approved conservation advice relevant to those species impacted by the proposed action and for this proposed approval decision are:

- Threatened Species Scientific Committee (2018). *Conservation Advice* Calyptorhynchus baudinii *Baudin's cockatoo*. Canberra, ACT: Commonwealth of Australia. Available from:  
<http://www.environment.gov.au/biodiversity/threatened/species/pubs/769-conservation-advice-15022018.pdf> (Attachment G4)
  - Threatened Species Scientific Committee (2009). *Approved Conservation Advice for* Calyptorhynchus banksii naso (*Forest Red-tailed Black Cockatoo*). Canberra, ACT: Commonwealth of Australia. Available from:  
<http://www.environment.gov.au/biodiversity/threatened/species/pubs/67034-conservation-advice.pdf> (Attachment G5)
  - Threatened Species Scientific Committee (2016). *Approved Conservation Advice (incorporating listing advice) for the Banksia Woodlands of the Swan Coastal Plain ecological community*. Canberra, ACT: Commonwealth of Australia. Available from:  
<http://www.environment.gov.au/biodiversity/threatened/communities/pubs/131-conservation-advice.pdf> (Attachment G7)
  - Threatened Species Scientific Committee (2008). *Approved Conservation Advice for* Drakaea micrantha (*Dwarf Hammer-orchid*). Canberra, ACT: Commonwealth of Australia Available from:  
<http://www.environment.gov.au/biodiversity/threatened/species/pubs/81853-conservationadvice.pdf>. (Attachment G9)
122. This recommendation report provides a discussion on the conservation advice with respect to the BBC and EW TEC. Based on the commitments of the proponent (Attachments E1), and on the conditions imposed by the Department in Attachment B of this proposed approval decision package, the Department considers the recommendations of this report have regard to the above conservation advices.
123. The Department's Species Listing Information and Policy Section's weekly update indicates that there are no imminent conservation advices which are relevant to this proposed decision (Attachment F1 – dated 29 March 2019)
124. The attached conservation advices have been reviewed to confirm that they are the most recent versions of these documents.

**ATTACHMENTS**

- A. [Recommendation Report](#) [This Report]
- B. [Decision Notice](#) [Draft]
- C. **Letters**
  - C1. [Letter to the Proponent](#) [For Signature]
  - C2. [Letter to DWER](#) [For Signature]
- D. **Figures**
  - [Figure 1: Clearing footprint and Conservation Area](#)
  - [Figure 2: Regional Context](#)
  - [Figure 3: Vegetative Units](#)
  - [Figure 4: Vegetative Condition](#)
- E. **Preliminary Documentation Package**
  - E1. [Finalised Preliminary Documentation](#)
  - E2. Woodman Environmental 2015 [Survey](#) and [Figures](#)
  - E3. [Vegetation Condition Report \(Offset Area\)](#)
  - E4. [Notice of no Public Comments](#)
  - E5. [Clearing Permit Decision Report CPS 7516/1](#)
  - E6. [Referral Decision Brief](#)
  - E7. [Referral Documentation](#)
  - E8. [Level 1 Flora and Vegetation Survey 2015](#)
- F. **Supporting Information**
  - F1. [EPBC Species and Ecological Communities Update \(dated 29 March 2019\)](#)
  - F2. [Email from Species and Ecological Communities](#)
  - F3. [Environmental history of proponent](#)
  - F4. [Statutory Document Report](#)
  - F5. [Offset Calculations](#)
  - F6. [Confirmation that Additional Orchid Surveys were not required](#)
- G. **Recovery Plans and Conservation Advice**
  - G1. [Australian Government Department of Sustainability, Environment, Water, Population and Communities \(2013\). Referral Guidelines for three species of Western Australian Black Cockatoos. Commonwealth of Australia, Canberra](#)

- G2. [Department of Parks and Wildlife \(2013\). \*Carnaby's Cockatoo \(Calyptorhynchus latirostris\) Recovery Plan\*. Department of Parks and Wildlife, Perth, Western Australia](#)
- G3. [Chapman, T. \(2008\). \*Forest Black Cockatoo \(Baudin's Cockatoo Calyptorhynchus baudinii and Forest Redtailed Black Cockatoo Calyptorhynchus banksii naso\) Recovery Plan\*. Department of Environment and Conservation, Western Australia.](#)
- G4. [Threatened Species Scientific Committee \(2018\). \*Conservation Advice Calyptorhynchus baudinii Baudin's cockatoo\*. Canberra, ACT: Commonwealth of Australia.](#)
- G5. [Threatened Species Scientific Committee \(2009\). \*Approved Conservation Advice for Calyptorhynchus banksii naso \(Forest Red-tailed Black Cockatoo\)\*. Canberra, ACT: Commonwealth of Australia.](#)
- G6. [Department of the Environment and Energy \(2018\). \*Threat abatement plan for disease in natural ecosystems caused by Phytophthora cinnamomi\*. Canberra, ACT: Commonwealth of Australia](#)
- G7. [Threatened Species Scientific Committee \(2016\). \*Approved Conservation Advice \(incorporating listing advice\) for the Banksia Woodlands of the Swan Coastal Plain ecological community\*. Canberra, ACT: Commonwealth of Australia.](#)
- G8. [Department of Environment and Conservation \(2009\). \*Grand Spider Orchid \(Caladenia huegelii\) Recovery Plan\*. Canberra, ACT: Commonwealth of Australia](#)
- G9. [Threatened Species Scientific Committee \(2008\). \*Approved Conservation Advice for Drakaea micrantha \(Dwarf Hammer-orchid\)\*. Canberra, ACT: Commonwealth of Australia](#)
- G10. [EPBC Act Environmental Offsets Policy \(October 2012\)](#)