



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST GRANT OF CLEARING PERMIT CPS 7393/1 – LOT 410 ON DEPOSITED PLAN 216960 BROWN STREET BUSSELTON

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 101A(4) of the *Environmental Protection Act 1986* in objection to grant a clearing permit. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

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| Appellant: | Busselton Dunsborough Environment Centre Inc. |
| Applicant: | City of Busselton |
| Proposal description: | Clearing of four native trees for the purpose of recreation |
| Minister's Decision: | The Minister partly allowed the appeal |
| Date of Decision: | 24 October 2017 |

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Department of Water and Environmental Regulation on the matters raised in the appeal. The Minister noted that representatives of the Office of the Appeals Convenor discussed the appeal with the appellant, and with the applicant.

After considering the appeal, the Appeals Convenor reported to the Minister under section 109 of the Act. This report sets out the background and other matters relevant to the appeal.

The appeal raised concerns about adverse impacts to the Western Ringtail Possum (WRP) population due to habitat loss, cumulative impacts from previous applications for clearing and also the adequacy of permit conditions to offset and manage the proposed clearing.

In respect to habitat loss, the Minister noted that the Department in its assessment considered the threatened status of the WRP and the cumulative impacts of clearing in the area and agreed with the appellant that the proposed clearing may impact upon significant habitat for the WRP. However, the Department considered an offset to counterbalance significant residual impacts from clearing was appropriate in this case.

While the Department acknowledged the appellant's concerns that the required planting of peppermint trees will take time to offset the loss of habitat, the Minister was advised that the offset for this clearing permit decision is a component of an overarching revegetation strategy for the Busselton Foreshore, providing an opportunity for a larger consolidated and secure habitat area for WRP than would otherwise occur.

With regard to permit conditions, the Minister noted that the Department imposed conditions on the clearing permit requiring the permit holder to plant individual peppermint trees to offset the residual impacts of the clearing and implement management actions outlined in its revised WRP Management Plan to assist in mitigating impacts to individual possums during clearing activities. In addition, the Minister understood that the applicant committed during the appeal investigation to improving existing tree canopy continuity for the WRP along Brown Street.

The Minister in noting the scale of the clearing, the broader revegetation strategy in place for the Busselton Foreshore and the proponent's commitments to improve the existing tree canopy on Brown Street, was of the view that the Department was justified in its decision to grant the permit subject to conditions.

However, the Minister in having considered all of the information presented, and for the reasons set out in the Appeals Convenor's report, decided to allow the appeal to the extent that conditions in the permit are amended to:

1. Improve the offset requirements of Condition 8 using the correct conservation status for WRP to increase the requirement for the establishment and maintenance of six peppermint trees to 11;
2. Include the specific management measures outlined in the applicant's WRP Management Plan as part of an amended Condition 7; and
3. Include a condition requiring the presence of an accredited fauna spotter-handler during clearing.

The Minister has otherwise dismissed the appeal.

The precise wording of the changes to the permit will be determined by the Department in giving effect to the Minister's decision under section 110 of the Act.

Note: this decision is published pursuant to the terms of section 110 of the *Environmental Protection Act 1986* and regulation 8 of the *Environmental Protection Regulations 1987*.

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