



Environmental Protection Act 1986

**Hon Stephen Dawson
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST DECISION OF THE DEPARTMENT OF ENVIRONMENT REGULATION NOT TO GRANT A CLEARING PERMIT (CPS 6422/1) — LOT 10320 ON DEPOSITED PLAN 206636, BOOTHENDARRA, SHIRE OF DANDARAGAN

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 101A(1)(a) of the *Environmental Protection Act 1986* in objection to the refusal to grant clearing permit 6422/1. 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.

Appellant:	Seatons Engineering Pty Ltd
Applicant:	Seatons Engineering Pty Ltd
Proposal description:	The clearing of up to 469 hectares (ha) of native vegetation for the purpose of agricultural activities.
Minister's Decision:	The Minister dismissed the appeal
Date of Decision:	18 May 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 Environment Regulation (DER) on the matters raised in the appeal. The Minister also received a report from the Appeals Convenor. The Appeals Convenor's report sets out the background and other matters relevant to the appeal. The Minister noted that the Appeals Convenor also met with the appellant to discuss the appeal.

The key concerns raised in the appeal relate to DER's conclusions in respect to biodiversity values (clearing principle a), fauna habitat (clearing principle b), flora values (clearing principle c) and the location of the proposed clearing in a highly cleared landscape (clearing principle e). The appellant also questioned findings made by DER in respect to possible land degradation and impacts to nearby conservation areas (clearing principles g and h), as well as the methodology employed by DER as part of its assessment of the application.

In the decision report accompanying DER's decision to refuse to grant the permit, the clearing was found to be at variance to clearing principles a and b, and may be at variance to principles c, e, g, and h. Given this, the Minister understood that the primary reason the clearing permit was refused relates to biodiversity values, and in particular, the value of the area to Carnaby's cockatoo.

In its assessment of the biodiversity and habitat values of the site, DER considered the quality and characteristics of the vegetation within the application area and described the vegetation proposed to be cleared as being in good to excellent condition and of a type that provides foraging habitat for Carnaby's cockatoo, a species listed as rare or likely to become extinct under the *Wildlife Conservation Act 1950*.

DER agreed with the appellant that the area proposed to be cleared did not include nesting habitat for Carnaby's cockatoo, however the Minister also noted the Appeals Convenor's advice that the proximity of the application area to mapped breeding areas of this species elevates the significance of the foraging habitat as described in the *Carnaby's Cockatoo (Calyptorhynchus latirostris) Recovery Plan*, Western Australian Wildlife Management Plan No. 52 (Department of Parks and Wildlife, 2012).

In regard to the appellant's concerns regarding the methodology employed by DER as part of its assessment, the Minister understood that some of the GPS points taken during the site inspection were provided to the appellant on 9 November 2016. The Appeals Convenor attended a site visit on 12 December 2016, where the GPS points provided by DER were found to be located either within or on the margins of the application area, or adjacent to the application area. Noting DER's advice that the purpose of the site inspection was to ground-truth the broad mapped vegetation types and determine the quality of the vegetation, the Minister considered that DER had adequate information to inform its assessment of the application.

The Minister took the information available into account and concurred with the Appeals Convenor that, on the basis of the values identified for the site, the scale of clearing, and conservation status of Carnaby's cockatoo, DER correctly identified that the proposed clearing was at variance to clearing principles a and b, and as a consequence considered that DER was justified in its decision to refuse to grant the permit. It followed that the Minister dismissed the appeal.

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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