



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST GRANT AND SPECIFICATIONS OF CLEARING PERMIT CPS 7227/1 – TOODYAY GOOMALLING, PINJARRA– WILLIAMS AND WILLIAMS – KONDININ ROAD

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 101A (4)(a) of the *Environmental Protection Act 1986* in objection to the grant and conditions of Clearing Permit CPS 7227/1. 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.

Appellants:	Wildflower Society of Western Australia (Inc) Ms Meg Wilson
Applicant:	Commissioner of Main Roads Western Australia
Proposal description:	Clearing of 18.16 hectares of native vegetation in the Shires of Goomalling, Narrogin, Toodyay and Williams for the purpose of road widening for public road safety
Minister's Decision:	The Minister allowed the appeals in part
Date of Decision:	6 April 2018

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the EP Act), the Minister for Environment obtained a report from the Department of Water and Environmental Regulation (DWER) on the matters raised in the appeals. The Minister was advised that the Appeals Convenor met with the appellants to discuss the appeals and DWER's response, and also met separately with the permit holder. After considering the information provided during the appeal investigation, the Appeals Convenor reported to the Minister under section 109 of the EP Act. The Appeals Convenor's report sets out the background and other matters relevant to the appeal.

The key concern raised in both appeals was that DWER should not have granted the permit as the clearing was considered environmentally unacceptable, specifically in relation to the environmental values of the vegetation, including the threatened ecological community (TEC) *Eucalypt woodlands of the Western Australian Wheatbelt*, its function as an ecological linkage, and cumulative impacts. In addition, the Wildflower Society submitted that DWER did not apply adequate conditions and raised concerns regarding the location of a suitable offset site. The other appellant submitted that DWER relied on inappropriate data and that dieback management options should have been considered.

In regard to the environmental values of the area, DWER advised that its assessment of the application found that the application area comprises a high level of biodiversity and functions as an ecological linkage. In relation to cumulative impacts, DWER advised that it considered cumulative impacts under clearing principle (e) relating to the significance of the area as a remnant, and found that the proposed clearing was at variance to this principle.

While the Minister acknowledged the other appellant's suggestion for DWER to use the VAST framework for assessment, DWER advised that it relied on Geographic Information System (GIS) biodiversity data sets, the findings of the GHD Flora and Fauna Assessment Report, the Impact Assessment of Clearing Report and the offset proposal commissioned by the permit holder, and advice received from the former Department of Parks and Wildlife.

The Minister noted the Wildflower Society's concerns regarding the number of variances to the clearing principles, however he noted that the EP Act does not preclude permits from being granted where clearing will be at variance to the principles, if there is a good reason for doing so. In this case, DWER advised that it had regard for road safety.

After taking into account the permit holder's measures to avoid and minimise clearing, in particular limiting the width of clearing to four metres from the seal of the road (where the recommended Austroads safety standard is eight metres), and only clearing selected trees, DWER considered that significant residual environmental impacts still remained from the proposed clearing. DWER determined that the clearing permit could be granted subject to conditions to mitigate impacts and the implementation of an offset to counterbalance the identified significant residual impacts.

DWER advised that the offset was calculated using established tools and metrics, in accordance with policy and procedures. While the Minister acknowledged the Wildflower Society's concern regarding the selection of the offset site, the Minister was advised that the site will be selected in consultation with the Department of Biodiversity, Conservation and Attractions, which has the relevant expertise in this area. The Minister noted that the details of ground-based offsets are publicly available on the Environmental Offsets Register which can be accessed via www.offsetsregister.wa.gov.au.

In relation to conditions, DWER agreed with the other appellant that condition 8 could be amended to include dieback. As a result of the investigation, the Appeals Convenor also recommended that condition 10 be amended to include a requirement for the permit holder to record on its efforts made in relation to condition 7 relating to avoidance and minimisation of clearing, and condition 8 relating to the management of weeds and dieback.

After considering the information before him, the Minister was satisfied that DWER appropriately assessed the environmental impacts from the proposal and was of the view that the decision to grant the permit was justified.

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However, the Minister allowed the appeals to the extent that conditions 8 and 10 of the clearing permit be amended as recommended by DWER and the Appeals Convenor. The precise wording of these amendments will be determined by DWER in giving effect to the Minister's decision under section 110 of the EP Act. The Minister otherwise dismissed the appeals.

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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