



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 7563/1 GREAT NORTHERN HIGHWAY UPGRADE MUCHEA TO WUBIN STAGE 2, SHIRE OF CHITTERING

Purpose of this document

This document sets out the Minister's decision on the appeal lodged under section 101A(4) of the *Environmental Protection Act 1986* in objection to the grant of clearing permit CPS 7563/1. 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:	Wildflower Society of Western Australia (Inc)
Permit Holder:	Commissioner of Main Roads Western Australia
Proposal description:	The clearing of up to 53 hectares of native vegetation for the Great Northern Highway Upgrade – Muchea to Wubin Stage 2
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	20 February 2018

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the EP Act), the Minister obtained a report from the Department of Water and Environmental Regulation (DWER) on the matters raised in the appeal.

After considering the information provided during the appeal investigation, the Appeals Convenor reported to the Minister under section 109 of the EP Act. This report sets out the background and other matters relevant to the appeal. The Appeals Convenor met with the appellant to discuss the appeal and DWER's response, and also met separately with the permit holder.

By way of summary, the appeal raised concerns in respect to the grant of the permit, including the significance of impacts to various Priority flora and fauna species, such as Carnaby's black cockatoo and the threatened ecological community (TEC) Banksia woodlands of the Swan Coastal Plain. The Minister understood that amongst other things,

the appellant considered that the clearing is excessive and that should the permit be granted, the conditions should be strengthened and a more meaningful offset applied.

With regard to the appellant's concerns relating to Priority flora, the Department of Biodiversity, Conservation and Attractions provided advice during the assessment that *Acacia drummondii* subsp. *affinis* is well represented in the area and the loss of these plants is unlikely to be significant. In relation to *Eucalyptus caesia* and *Verticordia serrata* var. *linearis*, DWER advised that as only an individual of each species is to be removed, it is unlikely that the conservation status of these species will be impacted. In relation to *Haemodorum loratum*, approximately 15 individuals are likely to be disturbed through the proposed clearing. DWER advised that given the distribution of this species within Western Australia and the habitat remaining for the local population, a viable population would remain. DWER therefore considered that the proposed clearing would not significantly impact on the conservation status of this species.

In relation to impacts to ground-dwelling fauna from the road widening, DWER recognised that while it will be more difficult for these species to cross the road, the proposed clearing will not sever any ecological linkages and the ability of these species to utilise areas of native vegetation will not be significantly affected.

With regard to the appellant's concerns that 13 artificial nest hollows will not be adequate for Carnaby's black cockatoo, the permit holder advised that it will establish 39 hollows in accordance with the offset proposal under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

While the Minister acknowledged the appellant's concerns regarding weeds and dieback, he noted that DWER applied dieback mitigation measures as a condition to the permit. The Minister also understood that the permit holder has provided for the ongoing management of weeds in its Environmental Management Plan and a Dieback Management Plan has been developed for the project.

In relation to the strengthening of conditions, while DWER was of the view that the permit holder undertook avoidance and minimisation measures to minimise clearing, DWER agreed with the appellant that a condition requiring the holder to further avoid and minimise clearing where possible, and report on its efforts in this regard be applied to the permit.

In relation to the adequacy of revegetation, as outlined in the Appeals Convenor's report, the opportunity for revegetation is limited due to the topography and nature of the work. Nonetheless, DWER applied a condition requiring the permit holder to establish 52 *Eucalyptus wandoo* trees in areas requiring revegetation. The Minister understood that this species is suitable to the topography and is of benefit to Carnaby's black cockatoo.

While the Minister noted the appellant's concerns regarding the number of variances to the clearing principles, the Minister considered that the EP Act does not preclude DWER from granting a clearing permit where the proposal will be at variance to the principles. In this case DWER assessed the application and, finding it to be at variance with various clearing principles, determined that the clearing permit could be granted subject to conditions to mitigate impacts including a requirement of an offset to counterbalance the significant residual impacts.

The Minister acknowledged the appellant's concerns about the application of offsets more broadly, however, the Western Australian Government offset policy recognises that offsets may be applied to counterbalance the significant residual impacts that remain after avoidance and mitigation options have been considered.

In this case, the Minister was advised that the offset of 211 hectares of excellent quality vegetation representative of the TEC and including suitable foraging habitat for Carnaby's black cockatoo was determined to be suitable. The details of the offset are publicly available on the Environmental Offsets Register which can be accessed via <https://offsetsregister.wa.gov.au/public/home/>.

After considering the available information, 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.

The Minister however, allowed the appeal to the extent that the clearing permit is amended, in line with DWER's recommendation, to require the permit holder to avoid and minimise clearing where possible and record and report on its effort in this regard.

The precise wording of this amendment 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 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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