



Environmental Protection Act 1986

**Hon Stephen Dawson MLC**  
**Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 7694/1 BOYUP BROOK – ARTHUR ROAD RESERVE, BOYUP BROOK**

#### **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 7694/1. 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](http://www.appealsconvenor.wa.gov.au).

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<b>Appellant:</b>	Wildflower Society of Western Australia (Inc)
<b>Permit Holder:</b>	Shire of Boyup Brook
<b>Proposal description:</b>	Clearing Permit CPS 7694/1 authorises the clearing of 34 native trees in the Boyup Brook-Arthur Road Reserve for the purpose of road widening.
<b>Minister's Decision:</b>	The Minister allowed the appeal in part.
<b>Date of Decision:</b>	20 February 2018

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#### **REASONS FOR MINISTER'S DECISION**

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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 Minister was advised that 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 Minister understood the appeal raised concerns in respect to DWER's assessment of the application, in particular that the appellant considered that DWER dismissed the significance of the trees and were of the view that the proposed clearing was at variance to principle (b) relating to significant habitat for indigenous fauna (particularly in relation to black cockatoos), and principle (e) significance as a remnant of native vegetation. The Minister also understood that the appellant was of the view that

DWER did not place adequate conditions on the permit, and an offset should have been applied.

While the Minister acknowledged the appellant's concerns on the importance of the trees for fauna habitat, the Minister was advised that a survey undertaken of the area found that the vegetation was in a degraded condition and unlikely to be a significant habitat for fauna. In addition, the survey found that the majority of trees were not suitable for black cockatoos nesting or breeding and no hollows were recorded in any of the trees marked to be cleared. In addition the Minister was advised that the understorey native vegetation does not comprise preferred black cockatoo foraging species.

In relation to the application area being significant as a remnant, DWER advised that the application area is located within the Jarrah Forest Interim Biogeographic Regionalisation of Australia (IBRA) bioregion, the Shire of Boyup Brook and is mapped as Beard vegetation association 3, all of which retain greater than the national objectives and targets of 30 per cent of their pre-European vegetation extents.

In relation to the strengthening of conditions, DWER agreed with the appellant in relation to the requirement of permit holder to report to DWER on efforts made to avoid and minimise clearing where possible.

After considering the available information, the Minister was satisfied that DWER's finding that the proposed clearing was not at variance to any of the clearing principles and its decision to grant the permit without an offset, 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 submit a report to DWER at the completion of clearing, which demonstrates that avoidance and minimisation measures have been applied, where possible.

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.

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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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