



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 9281/1 CHARLES GARDNER RESERVE, RALSTON ROAD AND GARDNER RESERVE ROAD RESERVES, SOUTH TAMMIN

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A(4) of the *Environmental Protection Act 1986* in objection to the above grant of 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.

Appellant:	Wildflower Society of Western Australia
Permit holder:	Shire of Tammin
Proposal description:	The permit authorises the clearing of 0.36 hectares of native vegetation within Charles Gardner Reserve, Ralston Road and Gardner Reserve road reserves, South Tammin, for the purposes of improving sightlines.
Minister's decision:	The Minister dismissed the appeal
Date of decision:	1 July 2022

REASONS FOR MINISTER'S DECISION

The Wildflower Society of Western Australia submitted an appeal in respect to clearing permit CPS 9281/1 granted to the Shire of Tammin, authorising the clearing of 0.36 hectares (ha) of native vegetation at the above location.

The Minister understood that the appellant was concerned about the extensively cleared landscape and significance of remaining remnant native vegetation and considered that alternatives should be applied to avoid the clearing. If the clearing is approved, the appellant considered that an offset should be applied to the permit.

Decision

Having considered the information available, including the Department of Water and Environmental Regulation's response to the appeal and the Appeals Convenor's report and recommendation, the Minister was satisfied that the decision to grant the permit was appropriate.

The Minister's reasons are set out below.

The clearing is within a highly cleared landscape

The Minister understood that the appellant's key concern was the degree of historical clearing in the region, and the additional incremental loss resulting from this clearing permit. The Minister was advised that the Shire of Tammin retains approximately four per cent of its original native vegetation, and the remaining percentages of the existing vegetation communities are significantly lower than the national targets for biodiversity conservation.

The Department's assessment found that the clearing was at variance to clearing principle (e) which sets out that native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared, and in this way the Department agreed with the appellant.

The Minister noted that the recently published Native Vegetation Policy recognises the Wheatbelt as an area where historic clearing has been extensive and where "strategic coordination and stewardship across sectors is needed to restore landscape and ecosystem function". Coordinated action at the bioregional level through the proposed Wheatbelt native vegetation strategy will target the goal of a net gain in extent and condition of roadside vegetation throughout the Wheatbelt.

The clearing is partially within Charles Gardner Reserve

In respect to this clearing permit, much of the area to be cleared is not within the gazetted boundaries of a road reserve, and instead is within Charles Gardner Nature Reserve. The Reserve is managed by the Department of Biodiversity, Conservation and Attractions (DBCA) under the *Conservation and Land Management Act 1984* for conservation of flora and fauna.

The Minister was advised that the applicant requires DBCA approval to access the land to undertake the clearing, and that representatives of the Shire have met with DBCA officers on site to agree on the clearing area and access arrangements. The Minister understood that the clearing will be undertaken in accordance with DBCA advice.

As noted by the Appeals Convenor, Ralston Road south of Gardner Reserve Road appears to have been constructed on an alignment that does not entirely correspond with the road reservation. In addition, it appears that the road reservation has been historically used as a road. This presents an opportunity to re-align the road reserve and return sections of native vegetation to Charles Gardner Reserve, which is discussed further below.

Areas to be cleared have been previously cleared

The Minister understood that the vegetation authorised to be cleared has been cleared within the last 10 years by DBCA. Evidence of the historical clearing is reflected in the flora survey which indicated that the vegetation is in a degraded condition with no conservation significant species being identified.

While the flora survey was not undertaken at a time when some targeted priority flora species would have been identifiable, advice from DBCA was that the proportional impacts resulting from the proposal are unlikely to be significant.

The Minister accepted the technical advice of DWER and DBCA that the clearing is of highly altered vegetation due to previous works and that the clearing poses limited threats to the surrounding environmental and biodiversity values.

The clearing is for a public use

The proposed clearing is to improve sightlines at two locations along Ralston Road as it passes through Charles Gardner Reserve. The Minister was advised that a school bus utilises the road and that there is a bus turning area near the southern boundary of the Reserve (this part of the clearing appears to be entirely within the boundaries of the Ralston Road reserve). During grain harvest periods, the Minister was advised heavy trucks traverse the stretch of road at 100 km/h and create a risk to the school bus and other road users when the visibility is restricted by vegetation.

The Minister understood that the applicant sought advice from Main Roads WA about the possibility of reducing the speed limit to avoid the clearing while improving road safety. The Minister was advised that Main Roads WA policy does not support the installation of a new speed zone in the area due to the isolated nature of the hazard.

Having regard for the purpose of the clearing to improve public safety and the lack of suitable alternatives, the Minister considered the decision to grant the permit was justified.

Offsets are not appropriate in all cases

In accordance with the Western Australian offset framework, offsets are not appropriate in all cases. The Department's decision to not apply an offset to this clearing permit is consistent with the *WA Environmental Offsets Policy* and DWER's *Clearing of native vegetation offsets procedure*.

Notwithstanding, the Minister agreed with the Appeals Convenor that a positive environmental outcome could be achieved by the tenure issues associated with Ralston Road being resolved, such that the unused road reserve is absorbed into Charles Gardner Reserve.

The Minister has requested DBCA work with the Shire of Tammin and the Department of Planning, Lands and Heritage to progress changes to the reservations to reflect the constructed alignment of Ralston Road, and for the former road reservations to be converted to a part of Charles Gardner Reserve. To the extent that parts of the road reserve have been historically disturbed, the Minister has asked DBCA and the Shire of Tammin to identify opportunities for these areas to be rehabilitated.

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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