



Environmental Protection Act 1986

Hon Amber-Jade Sanderson MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST GRANT OF CLEARING PERMIT CPS 8761/1 LOTS 9882 AND 9883 PLAN 203117 BOORARA BROOK, SHIRE OF MANJIMUP

Purpose of this document

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

Appellants:	Dr Beth Schultz AO Mr John Perlinksi
Applicant:	Mr Peter Robert Beebe
Proposal description:	The permit authorises the applicant to clear up to 33.8 hectares of native vegetation for the purpose of a timber harvest and associated silvicultural activities
Minister's decision:	The Minister allowed the appeal in part
Date of decision:	8 December 2021

REASONS FOR MINISTER'S DECISION

Two appeals were received against the grant of clearing permit CPS 8761/1 by the Department of Water and Environmental Regulation (DWER) to Mr Peter Robert Beebe (applicant).

The permit was granted to clear up to 33.8 hectares (ha) of native vegetation within the above lots, for a timber harvest and associated silvicultural activities.

By the appeals, the Minister understood the appellants were seeking for the permit to be refused, with concerns relating to the ongoing loss of karri forests and impacts to a range of conservation significant fauna. Concerns were also submitted over reduced forest health, degradation of the remnant, and increased risk of bushfire with altered nutrient cycles.

Decision

Having considered the information available to her, including DWER's response to the appeals and the Appeals Convenor's report and recommendation, the Minister considered that the decision to grant the permit, subject to conditions was justified.

However, the Minister also considered that the local impacts to conservation significant fauna; and potential adverse effects on forest health and flammability can be further minimised through strengthened permit conditions. The Minister decided to allow the appeals to the extent that the permit is amended to require additional mitigation measures to:

- reduce the impacts of soil compaction, to facilitate regeneration, and to reduce the impacts on fungi habitat;
- reduce impacts to fauna at the local-level; and
- ensure the proposed burn is regenerative and not destructive.

A detailed list of the required amendments to the permit conditions is attached.

The Minister has otherwise dismissed the appeals. The full reasons for her decision follow.

Cumulative loss of karri forests

The Minister noted the appellants' concerns that the ongoing loss of karri forest is unacceptable, given its endemism, multiple conservation values and losses through intensive commercial logging. Furthermore, concern was raised over the release of carbon and subsequent reduced capacity for carbon capture and storage.

The Minister was advised that the application area is mapped predominately as a mixed karri-marri forest (Crowea vegetation complex) which retains approximately 86% of its pre-European extent. Of this, 81% is within lands managed by the Department of Biodiversity, Conservation and Attractions (DBCA). Furthermore, the application area does not form part of an ecological linkage, nor provide habitat considered significant for conservation significant flora or fauna species.

Regarding the loss of carbon and capacity to store carbon post-harvest, the Minister considered that the release of carbon and subsequent loss of storage to be minor. This is due to the relatively small scale of timber harvest (in a landscape context), the requirement for retention of habitat for fauna, future regeneration of the application area, and the persistence of substantial areas of contiguous vegetation that will be managed consistent with the recent policy directions identified on 8 September 2021 ([Media Statements - McGowan Government's historic move to protect native forests](#)).

As the mapped vegetation complex within the application area is adequately represented, protected, and managed in conservation estate, the Minister considered DWER's assessment appropriate.

Given the above, the Minister was satisfied that DWER's assessment of cumulative impacts was appropriate.

Impacts to forest fauna

By the appeals, it was submitted that the proposed clearing would result in harmful impacts on forest biodiversity and would constitute a breach of the precautionary principle and the principle of the conservation of biological diversity and ecological integrity. This included concerns relating to the inadequate number of habitat trees to be retained and the loss of hollows (and

subsequent lag in hollow formation) for mammal and bird species. It was further submitted that fauna would be displaced onto nearby roads.

The Minister considered that DWER's assessment adequately considered the impacts to fauna at the species-level. However, as the application area contains habitat for a range of terrestrial and arboreal fauna of conservation significance, the potential local impacts can be reduced further, through strengthened permit conditions.

The Minister noted that the application area contains habitats for all three black cockatoo species, western ringtail possum (WRP), quokka, south-western brush-tailed phascogale, short-nosed snake and quenda. However, the Minister was advised that the habitat is not considered significant for these species given the availability of substantial areas of contiguous and secure fauna habitat outside the application area for all species, except WRP. The application area is outside the key management zones for WRP and given this, DWER considered the habitat is not significant for WRP.

Consistent with the Appeal Convenor's advice, the Minister considered that the timber harvest is unlikely to change the conservation status of fauna species. However, the Minister considered that the local impacts to fauna could be reduced by amending the permit to require 'thinning from below' - which removes immature trees and retains the older trees of highest conservation and habitat value.

Furthermore, the Minister agreed with the Appeal Convenor that additional habitat elements should be retained given the diversity of fauna assemblages in karri forests. The Minister required that conditions be amended to include more habitat trees, patches of healthy representative understorey and habitat logs with retention rates consistent with DBCA forestry practices. This includes the (2016) Karri treemarking procedure and (2016) Karri treemarking ready reckoner.

The Minister was also advised that the incorrect height was used in the definition of 'habitat tree' in the permit. This and future permits should specify the correct height of 1.3 metres above ground level.

Given the above, the Minister was satisfied with DWER's assessment of impacts to fauna at the species-level. However, the Minister agreed with the Appeal Convenor's advice that further mitigation measures could be undertaken to reduce impacts to fauna at the local-level.

Impacts on forest health and function

By the appeals, it was submitted that the silviculture practices will negatively impact forest health and functioning by soil compaction and erosion; spread of forest diseases and impacts to fungi habitat.

The Minister was advised that soil compaction from timber harvesting is more prevalent in karri forest when undertaken in moist soil conditions. To mitigate against this and subsequent erosion, the Minister considered that further conditions are required to restrict machinery operation to dry conditions and for the scarification of extraction tracks and log landings. This will reduce soil compaction and erosion to facilitate natural regeneration. Furthermore, the applicant advised that the log landings authorised on the permit were excessive and should be reduced from 3,000m² (0.3 ha) to 500m² in total. This will reduce impacts and should be modified on the permit as such.

The Minister considered DWER's assessment of forest disease risk to be sound and agreed with the Appeals Convenor that the conditions applied to the permit are appropriate.

However, to reduce the impacts to fungi habitat, the Minister agreed with the Appeals Convenor that additional habitat features be required. Including the retention of one ground habitat log per hectare and the removal of all woody fuels one metre away from habitat logs to prevent combustion. Fungi habitat will also be provided from the retained habitat elements required for fauna.

Forest flammability

It was submitted by the appeals that the harvest and associated silvicultural activities may increase the risk of wildfire through increasing the flammability of the remnant. It was also submitted that after clearing, more sunlight will reach the ground and dry out debris and promote weed growth – both leading to increased flammability. Relatedly it was noted that the clearing and subsequent fires would lead to a change in soil nutrients.

The Minister was advised that while weed cover does increase following fire, most weed species present are ephemeral, and reduce in dominance as native species regenerate.

DBCA has advised that a post-harvest burn under prescribed conditions will stimulate the release of organically bound nutrients and allow for regeneration of nitrogen fixing understorey species. The Minister was advised that the study submitted as part of the appeals relates to native mountain ash forests of south-eastern Australia which differ substantially to karri forests. Research specific to karri forests has shown that there is little evidence that timber harvesting increases bushfire severity.

However, the Minister considered that further measures should be undertaken to ensure the proposed burn is regenerative and not destructive. This includes undertaking only one understorey burn, in spring or early summer and during conditions determined suitable by a Bush Fire Officer appointed under the *Bush Fires Act 1954*. Furthermore, to prevent combustion of retained habitat elements, all woody fuels present within a one metre radius should be removed.

The Minister considered that the above management actions will minimise impacts of fire to retained vegetation and habitat elements and assist in regeneration of the application area.

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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Att.

Appeal decision - amendments to conditions of clearing permit CPS 8761/1

Soil compaction and erosion mitigation

- Two log landings of up to 0.05ha (500m²) in total
- Extraction tracks are to be rehabilitated by scarifying the soil surface to reduce compaction and facilitate natural regeneration
- Operation of logging machinery is limited to dry conditions
- Rehabilitation of log landings and extraction tracks is limited to dry conditions

Fauna and fungi habitat

- The definition for habitat tree be corrected for measurement at 1.3 metres above ground-level.
- 'Thinning from below' approach be used to remove immature trees and retain mature trees at the minimum retention rate
- A minimum retention rate of 16 m²/ha basal area
- Retention of a minimum of 5 habitat trees per hectare
- Retention of a minimum of one 30 metre diameter patch of healthy understorey per hectare
- Retention of a minimum of 1 ground habitat log per hectare

Fire mitigation

- Prescribed burning of understorey to only occur:
 - on one occasion;
 - in spring or early summer; and
 - during conditions that have been determined to be suitable by a Bush Fire Officer appointed under the *Bush Fires Act 1954*.
- Removal of all woody fuels present within a 1 metre radius of each retained habitat element.