



Environmental Protection Act 1986

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

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST AMENDMENT OF CLEARING PERMIT CPS 6808/3 VARIOUS LOTS NATURALISTE, CAPE NATURALISTE ROAD RESERVE AND SHEENS ROAD RESERVE, DUNSBOROUGH, CITY OF BUSSELTON

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A(3)(b) of the *Environmental Protection Act 1986* in objection to the above amended 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:	Urban Bushland Council WA Inc
Permit Holder:	City of Busselton
Proposal description:	The clearing permit authorises the clearing of up to 2 hectares of native vegetation for the purpose of constructing a mountain bike trail network
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	22 September 2021

REASONS FOR MINISTER'S DECISION

An appeal was received from Urban Bushland Council WA Inc objecting to the amendment of Clearing Permit CPS 6808/3, authorising the clearing of up to 2 hectares of native vegetation at the above location. The amendment extends the duration of the permit and the period in which the clearing can occur.

The appellant was concerned about the environmental values contained in the application area and the impact of the proposed clearing on those values. In summary, the appellant opposed the clearing for mountain biking in this location and considered there were more suitable locations for this land use.

The appellant also raised concerns about the potential for the mountain biking activity to impact on the values of the area over time.

Decision

Having considered the information available to her, including the Department of Water and Environmental Regulation's (DWER) response to the appeal and the Appeals Convenor's report and recommendation, the Minister was satisfied that it was reasonable for DWER to amend the permit to extend the duration.

The Minister however allowed the appeal to the extent that an additional condition is applied to the permit requiring slow progressive clearing to allow fauna to move into adjacent vegetation ahead of the clearing activity. The Minister otherwise dismissed the appeal.

The Minister's reasons are set out below.

Environmental values of the application area

The appellant raised concerns about the high conservation value of the area, the presence of conservation significant fauna and submitted that the application area contains habitat for black cockatoo and other fauna species.

The appellant also raised concerns about the spread of dieback and the potential impact on adjacent native vegetation resulting from the clearing.

DWER advised that the clearing relates to the construction of 4.4 kilometres (km) of new trails approximately 1 metre wide and the widening of 11.2 km of existing trails. The extent of native vegetation required to be cleared is limited to a maximum of 2 hectares. The clearing is restricted to understorey vegetation only. Overstorey and black cockatoo habitat trees will be retained, consistent with condition 8 of the permit.

DWER advised that it had regard for the avoidance and minimisation measures proposed by the permit holder, including the positioning and arrangement of the trails within areas of historical disturbance from landfill sites, gravel pits and dieback, as well as utilising already degraded trails from unauthorised mountain biking.

DWER considered that the proposed clearing is unlikely to result in the loss of suitable habitat for black cockatoo species, as well as arboreal fauna such as the western ringtail possum due to the retention of all overstorey and habitat trees. The Minister noted the appellant's concerns about ground-dwelling fauna and that DWER had recommended an additional condition on the permit in this regard, which the Minister considered appropriate.

In relation to the appellant's concerns about the spread of dieback, the Minister noted that DWER identified this as a potential risk that may impact on the environmental values of the Meelup Regional Park. DWER considered that the impacts were not likely to be significant given the application area is wholly within an area mapped as infested and unprotected from weeds and dieback. DWER advised that there is sufficient buffer around the application area and that the proposed trails were unlikely to result in the spread of dieback into uninfested areas.

Notwithstanding, the Minister was satisfied that DWER included conditions relating to minimising the spread of dieback (condition 7) from the clearing and was advised that the Meelup Regional Plan also has a Disease Management Plan that includes additional provisions to prevent the spread of dieback into uninfested areas.

Clearing in the Meelup Regional Park

The appellant raised concerns about allowing clearing within the Meelup Regional Park for mountain biking, due to the environmental values present and its designation as an A class Reserve.

The Minister was advised that the Park is managed by the City of Busselton in accordance with the Meelup Regional Park Management Plan, which was approved by the Minister for Lands in 2010.

The Meelup Regional Park Management Plan categorises the Park into zones based on the priority values and management activities for each zone. The application area is within a zone identified as having high conservation significance where protection of natural values is the highest priority for management, but appropriate nature-based recreation is encouraged and catered for.

The Minister understood the application area, within Zone 6 of the Park, was selected primarily due to the historical disturbance within the area, including the landfill site, gravel pits and because the area is experiencing ongoing unauthorised clearing for mountain bike trails.

Given the degree of historical disturbance and ongoing management issues resulting from unauthorised clearing of trails, the Minister was advised that the formalisation of a trail network may lead to improved environmental outcomes, as mountain bikes will be utilising designated trails and leaving intact adjacent vegetation and habitats largely undisturbed, improving the conservation values of the Park. In this way, the Minister was advised that the proposed clearing is consistent with the management objectives of Zone 6.

Next steps

The final wording of the changes to the permit will be a matter for DWER to determine in giving effect to the Minister's appeal decision under section 110 of the *Environmental Protection Act 1986*.

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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