



Environmental Protection Act 1986

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

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST AMENDMENT TO CONDITIONS OF CLEARING PERMIT CPS 8392/3 – LOT 9005 NULLAKI AND LEE ROAD, BROWN ROAD AND LAKE SAIDE ROAD RESERVES, YOUNGS SIDING

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 101A(3)(b) of the *Environmental Protection Act 1986* in objection to the above clearing permit amendment. 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:	Mr Barry Jackson Ms Angela and Mr Andrew Dickinson
Permit Holder:	Mr Graeme Robertson
Proposal description:	The amendment allows an increase in the extent of clearing within the lime pit at any one time from 2 hectares to 3 hectares, however the total clearing footprint remains unchanged at 15.19 hectares, of which the lime pit is still 8 hectares.
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	19 August 2021

REASONS FOR MINISTER'S DECISION

Two appeals were received objecting to the decision of the Department of Water and Environmental Regulation (DWER) to amend Clearing Permit CPS 8392/3 authorising the clearing of 15.19 hectares of native vegetation at the above location.

The amendment allows the permit holder to clear one additional hectare of native vegetation at any one time within the limestone pit, for the purpose of storage and stockpiling. The total clearing footprint of the limestone pit remains unchanged at 8 hectares.

The key concerns raised by the appeals relate to the risk of land degradation from wind erosion, and revegetation and rehabilitation of the site. Appellants also raised other issues about compliance and the necessity of the clearing.

Decision

The Minister carefully considered the information available to her, including DWER's response to the appeals and the Appeals Convenor's report, and was satisfied the decision to amend the permit was generally appropriate.

However, the Minister decided to allow the appeals to the extent that the following conditions are clarified and strengthened as follows:

- condition 5(a) be revised to ensure that the stockpile area is only cleared incrementally, as required, and contains stockpiled lime, vegetative material and/or equipment, or is otherwise protected from wind erosion using control mats or geotextiles.
- condition 12 be amended to reflect the intended progressive and immediate revegetation and rehabilitation commitments of the permit holder.

The Minister otherwise dismissed the appeals; her reasons are as follows.

Land degradation

The Minister noted the appellants' concerns about the risk of wind erosion within the limestone pit, and the potential for this risk to increase as a result of the additional clearing authorised at any one time following this amendment.

On receipt of the application to amend the clearing permit, DWER reviewed its assessment of land degradation within the application area. While DWER acknowledged that the greatest risk of land degradation from wind erosion occurred in the limestone pit, it considered that the amendment did not materially increase this risk, and that the risk could continue to be managed by permit conditions.

However, DWER acknowledged that the wording of condition 5(a) could be strengthened to ensure that the additional one hectare stockpile area is only cleared as required or is otherwise protected from wind erosion using control mats or geotextiles, so that it is not left as bare, exposed ground. The Minister accepted and agreed with DWER's advice on this aspect of the appeal.

Revegetation and rehabilitation

Appellants also raised concerns about rehabilitation of the limestone pit area.

The Minister noted that the permit holder has committed to progressively rehabilitating cleared areas so they are not left open and bare for extended periods. However, this was not reflected in condition 12 of the clearing permit, which required the permit holder to revegetate within 12 months.

The Minister therefore considered that the wording of condition 12 could be improved to reflect the permit holder's commitments.

Other matters

The Minister acknowledged the appellants' concerns regarding compliance of permit conditions. The Minister was advised that DWER has been monitoring the project and investigating reports of alleged non-compliance.

Also senior officers from DWER recently attended a series of community meetings in Denmark where this project was discussed. The Minister encouraged the appellants to submit any complaints in relation to compliance with permit conditions directly with DWER's 24-hour Pollution Watch Hotline on 1300 784 782 or via its online reporting form. DWER advised that it will take action in accordance with its Compliance and Enforcement Policy where appropriate.

Finally, the Minister was aware that there are appeals lodged regarding a related works approval W6420/2020/1 authorising crushing and screening of limestone within the limestone pit. These appeals will be determined separately.

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*.

Office of the Appeals Convenor

Level 22, 221 St Georges Terrace

Perth WA 6000

Tel: (08) 6364 7990

www.appealsconvenor.wa.gov.au