



Environmental Protection Act 1986

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

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 9090/1 – LOT 2375 ON DEPOSITED PLAN 125837, MIDDLESEX, SHIRE OF MANJIMUP**

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

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<b>Appellant:</b>	Wildflower Society of Western Australia (Inc.)
<b>Permit holder:</b>	Mr John Reeve
<b>Proposal description:</b>	The permit was granted to clear up to 2.9 hectares of native vegetation within the above lot for the purpose of cropping and asset protection.
<b>Minister's decision:</b>	The Minister allowed in part the appeal.
<b>Date of decision:</b>	15 July 2021

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

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An appeal was received on 24 March 2021 objecting to the grant of Clearing Permit CPS 9090/1 to Mr John Reeve by the Department of Water and Environmental Regulation (DWER). DWER granted the permit subject to conditions on 5 March 2021.

The appellant sought for the permit to be refused until surveys have been undertaken for conservation significant flora and fauna. The Minister noted the appellant raised concerns regarding the absence of flora and fauna surveys despite species being present in the local area. The origin of the avoidance and minimisation measures noted in DWER's decision report was also questioned in the appellant's submission.

#### **Decision**

Having considered the information available to her, including DWER's response to the appeal 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 decided to allow the appeal to the extent a condition be applied to the permit to require that the identified potential black cockatoo habitat tree be retained.

The Minister otherwise decided to dismiss the appeal. The full reasons for her decision are set out below.

### **Black cockatoo surveys**

By desktop assessment, DWER identified potential black cockatoo habitat outside the application area. The Minister was satisfied that those areas of native vegetation are more likely to provide higher quality habitat that is secure in conservation estate. The Minister noted that there is approximately 12,000 hectares of native vegetation retained in the conservation estate within 10 km of the application area. The Minister was advised that approximately 50% of this native vegetation is of the same vegetation types as originally in the application area. Given the availability of potential black cockatoo habitat in the local area, the Minister considered it appropriate that black cockatoo habitat surveys were not required in this case.

Upon review of the site photographs as provided by the applicant, the Minister accepted DWER's advice that the identified potential habitat tree (known as Wp6) may produce suitable breeding hollows in the future. Given this, the Minister considered it appropriate for this tree to be retained.

Taking into account the above, the Minister was satisfied that DWER's assessment had appropriate regard for black cockatoo habitat in the context of surrounding habitat and development pressures.

### **Flora surveys**

The Minister was advised that the application area is unsuitable habitat for conservation significant flora due to being in a 'Degraded' to 'Completely Degraded' condition from intensive and ongoing agricultural disturbance. DWER considered the presence of conservation significant flora unlikely, including Priority 1 species *Deyeuxia inaequalis* due to the vegetation condition and soil type of the application area. Although recorded 1.4 km away in Tone State Forest, *D. inaequalis* is typically associated with Jarrah Forest communities which are not represented in the application area. Given this, the Minister considered it appropriate that flora surveys were not required.

### **Avoidance and minimisation measures**

The Minister understood that avoidance and minimisation measures were absent from the clearing permit application form yet included in DWER's decision report. The Minister noted that in this case, DWER requested this further detail from the permit holder during the assessment process and was satisfied that the measures proposed were sufficient.

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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*.

### **Office of the Appeals Convenor**

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