



Environmental Protection Act 1986

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

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST UNDERTAKING TO GRANT CLEARING PERMIT CPS 9009/1 PEPPERMINT GROVE ROAD RESERVE AND LOT 801 ON PLAN 38278, WAGERUP, SHIRE OF WAROONA

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A of the *Environmental Protection Act 1986* in objection to the undertaking to grant Clearing Permit CPS 9009/1. 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.
Applicant:	Shire of Waroona
Proposal description:	Proposal to clear five native trees for road improvement works.
Minister's decision:	The Minister dismissed the appeal.
Date of decision:	6 July 2021

REASONS FOR MINISTER'S DECISION

The Shire of Waroona is proposing to clear five native trees located alongside a section of Peppermint Grove Road in Wagerup, as part of road safety and improvement works under the Black Spot Program.

The Department of Water and Environmental Regulation (DWER) issued the undertaking to grant a permit, subject to conditions, on 22 March 2021. The grant of the permit is dependent on evidence of land ownership being provided by the Shire of Waroona to DWER and includes conditions to avoid, minimise and reduce the impacts and extent of clearing; implement weed and dieback management; and keep records and report on activities done in accordance with the draft permit.

The appellant sought for the undertaking to grant the draft permit to be refused. The Minister noted that the key concerns raised in the appeal related to alternatives to clearing and the adequacy of DWER's assessment of the environmental values of the trees proposed to be cleared, particularly in relation to black cockatoo habitat.

Decision

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

The Minister therefore dismissed the appeal. The full reasons for the decision are set out below.

Alternatives to clearing

The Minister was advised that the applicant's consultant undertook a road safety audit of a section of Peppermint Grove Road, which had recently been upgraded to improve road safety. The audit identified the five native trees the subject of the draft permit within the road safety clear zone and were recommended for removal. The Minister understood the trees are located some two metres away from the road carriageway, and that alternatives to clearing such as road safety barriers, were found not to be feasible.

The Minister was satisfied that DWER had appropriate regard to the necessity of the proposed clearing, and had applied appropriate controls to the draft permit to minimise the impact of clearing.

Assessment of environmental values

The Minister noted that in assessing the application for a permit, DWER undertook a site inspection and observed the vegetation within the application area as comprising *Corymbia calophylla* (marri) trees over grassy weeds.

The Minister was advised that the local area [within 10 kilometres of the application area] retains approximately 31 per cent of native vegetation cover and some 8,276 hectares of mapped foraging habitat for black cockatoo.

Given the proposed clearing is limited to 5 trees and the significant amount of suitable foraging vegetation within the local context, the Minister agreed with DWER that the clearing was unlikely to significantly reduce the amount of foraging habitat available to black cockatoos.

On the information provided, the Minister was of the view that DWER had appropriate regard for the environmental impacts associated with the application, including cumulative impacts and potential impacts to ecological linkage.

It follows that the Minister considered that DWER was justified in its decision to issue the undertaking to grant the draft permit subject to certain conditions.

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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