



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 9339/1 KARNUP ROAD AND BISHOP ROAD RESERVES, SERPENTINE AND MUNDIJONG, SHIRE OF SERPENTINE JARRAHDALE

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 grant of the above 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:	Shire of Serpentine Jarrahdale
Proposal description:	The permit authorises the clearing of 0.188 hectares of native vegetation for the purpose of road upgrades.
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	6 December 2022

REASONS FOR MINISTER'S DECISION

An appeal was received from Urban Bushland Council WA Inc. (the appellant) objecting to the grant of the above permit to the Shire of Serpentine Jarrahdale (the Shire), authorising the clearing of 0.188 hectares of native vegetation. The permit was granted by the Department of Water and Environmental Regulation (DWER) for the purpose of road construction and upgrades to improve road safety.

The appellant's main concern was the environmental values and functions of the vegetation proposed to be cleared, including the provision of fauna habitat and ecological linkages. Based on these values, the appellant considered that the vegetation should be retained.

Decision

Having considered the information available to him, including DWER's response to the appeal and the Appeal Convenor's report, the Minister was satisfied that the decision to grant the permit was justified.

However, the Minister agreed that certain trees within the clearing footprint provide important foraging resources for black cockatoo species in the context of the highly cleared Swan Coastal Plain. The Minister therefore allowed the appeal to the extent that an offset is required to counterbalance the residual impact of the clearing of marri trees and that the duration of the permit should be extended to achieve the revegetation requirements.

The full reasons for the Minister's decision are set out below.

Trees within the application area provide foraging habitat for black cockatoos

The Minister understood that the appellant's key concern was that the vegetation, and in particular the marri trees, provides foraging habitat for black cockatoo species and 'stepping stones' for fauna within a cleared landscape.

DWER advised that the application area contains tree species that are known to provide foraging for three black cockatoo species, within proximity to roosting and breeding sites. While DWER considered that the small, fragmented nature of the clearing, along with the abundant foraging resources nearby means that the clearing will not have a significant residual impact on habitat for black cockatoos, it also acknowledged that all remaining habitat is critical for the survival of the species.

The Shire advised that through a range of avoidance measures, the clearing will be limited to the removal of 30 native trees in total, 28 of which are marri, which it acknowledges are preferred foraging habitat for black cockatoos. On this basis, the Minister agreed with the Appeals Convenor and DWER that the clearing is 'at variance' to clearing principle (b), which provides for the protection of habitat for conservation significant fauna species.

As the local area retains approximately 33 per cent of pre-European vegetation coverage, roadside vegetation likely provides local ecological linkages or 'stepping stones' across the fragmented landscape. Notwithstanding, the Minister was advised that the nature of the clearing means this linkage is unlikely to be severed.

The clearing is largely consistent with planning and other relevant matters

The clearing will occur entirely within road reserves, and therefore the purpose of the clearing (road upgrades) is consistent with the purpose of the reserve. While the Shire's Local Planning Strategy supports the retention and protection of natural corridors along roads, the necessity of the clearing is a relevant consideration in the decision to grant the permit.

In this regard, the Minister was advised that road safety concerns have been identified based on crash data along both roads. The clearing will remove only hazardous trees that are too close to the road and allow road upgrades including sealing of shoulders. The Minister therefore accepted the advice that the clearing will have a public benefit through improved road safety, and only trees that cannot be avoided or pruned, will be removed.

Granting the permit was justified, but an offset is required

Based on the above, the Minister agreed with the Appeals Convenor that the decision to grant the permit was justified. Notwithstanding, the Minister is cognisant of the ongoing cumulative loss of black cockatoo foraging resources on the Swan Coastal Plain, and the advice of the DWER and the Commonwealth government that all remaining habitat is critical to the survival of the species.

The Minister therefore accepted the advice of the Appeals Convenor that consistent with the State offsets framework, an offset is required to counterbalance the residual impact resulting from the clearing of 28 marri trees authorised by the clearing permit.

Through the appeal investigation, the Shire proposed to plant at least 68 marri tree stems in a suitable location alongside Bishop Road, to offset the loss of black cockatoo foraging habitat.

The Minister was advised that in accordance with the offset framework, the offset will adequately counterbalance the impact related to the clearing, providing an outcome that is secure, enduring and enforceable, delivering long-term strategic and ecological benefits close to the impact site. In this regard the Minister noted that consistent with the Offsets Guidelines, the offset will be recorded in the publicly available WA Environmental Offsets Register.

The Minister has advised DWER to amend the permit to give effect to his decision under section 110 of the *Environmental Protection Act 1986* with the final wording of those changes being at DWER's discretion.

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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