



Environmental Protection Act 1986

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

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST CONDITIONS OF CLEARING PERMIT CPS 8832/1 VARIOUS LOTS, GOOMALLING-MECKERING ROAD RESERVE, CUNJARDINE AND HULONGINE, SHIRE OF GOOMALLING

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.

Appellant:	Wildflower Society of Western Australia (Inc.)
Applicant:	Shire of Goomalling
Proposal description:	Clearing of up to 2.8 hectares of native vegetation for the purpose of road widening.
Minister's decision:	The Minister allowed the appeal in part
Date of decision:	15 November 2021

REASONS FOR MINISTER'S DECISION

The Wildflower Society of Western Australia (Inc.) (the appellant) submitted an appeal against the conditions of clearing permit CPS 8832/1 granted by the Department of Water and Environmental Regulation (DWER) to the Shire of Goomalling (the applicant).

The permit was granted for the clearing of up to 2.8 hectares of native vegetation within an application area of 27.1 hectares. The permit authorised clearing along sections of the Goomalling-Meckering Road in Hulongine and Cunjardine for the purpose of road widening to improve road safety.

Decision

Having carefully considered the information provided to her, including DWER's response to the appeal and the Appeals Convenor's report and recommendations, the Minister generally agreed that the conditions applied to the permit are adequate and appropriate. However, to

improve clarity the Minister allowed the appeal to the extent that the following conditions are amended to require:

1. actions undertaken to avoid and minimise indirect impacts to priority flora species are recorded
2. clarification that a total of 11 artificial black cockatoo nesting hollows are required to be installed
3. retained vegetative material and topsoil be used at the offset sites
4. clarification that revegetation completion criteria be achieved within 5 years; and then maintained for a period of 2 years.

The Minister otherwise dismissed the appeal. The full reasons for her decision follow.

Priority flora buffers

The Minister noted the appellant's request that all Priority flora buffers should be demarcated to prevent flora from being impacted by the clearing. Currently the permit requires demarcation if it is practicable.

The Minister was advised that the applicant is not authorised to clear any Priority flora. The Minister noted that where Priority flora are in close proximity to the existing Goomalling-Meckering Road, a buffer may not be able to be demarcated in its entirety. In recognition of this, DWER required that all individual plants be identified and demarcated prior to clearing activities commencing.

In response to the appeal, DWER recommended that the applicant be required to develop a flora management plan in consultation with the Department of Biodiversity, Conservation and Attractions which is to be submitted to DWER prior to clearing. DWER further recommended reporting of avoidance and minimisation measures.

While the Minister noted DWER's recommendation to develop a flora management plan, in this case, noting that the applicant is not authorised to clear Priority flora, and will have a consultant on site, the Minister considered that the 20 metre buffer and demarcation where practicable is adequate and that no plan is required. However, the Minister recommended that condition 14 be revised to include an additional requirement for the applicant to record avoidance and minimisation measures relating to the indirect impacts to Priority flora.

Based on the above, the Minister considered that condition 9 is appropriate and condition 14 be amended.

Black cockatoo hollows

The appellant was of the view that the current wording of the black cockatoo conditions were ambiguous, and it was unclear if the applicant is required to install 11 or 33 hollows. The appellant submitted that the applicant should be required to install a total of 33 artificial black cockatoo nesting hollows to counterbalance the impacts within the application area.

The Minister was advised that the clearing will impact 11 hollows (in 10 trees) of suitable size for black cockatoo breeding. DWER advised that during a site visit by the applicant's environmental consultant in July 2020, the hollows had no evidence of use by black cockatoos.

Condition 10 requires that prior to the commencement of clearing activities, the applicant must undertake pre-clearance surveys and if evidence of black cockatoo use is found, hollows are not authorised to be cleared until migration occurs.

To counterbalance impacts to hollows, DWER's practice is to require that hollows are replaced at a ratio of 1:1; that is, one artificial nesting hollow for each suitably sized potential black cockatoo nesting hollow that is cleared.

Given the above, the Minister has decided that condition 10 should be amended to clearly state that a total of 11 artificial black cockatoo nesting hollows are required to be installed to counterbalance the impacts to nesting habitat within the application area.

Revegetation

The Minister noted the appellant's concern that the topsoil and vegetative material from the clearing is not being utilised in revegetation at the offset sites.

DWER determined that the clearing will result in the loss of 2.8 hectares of native vegetation considered significant in an extensively cleared landscape. The Minister was advised that aerial imagery indicates that the application area functions as an ecological linkage between areas of remnant vegetation in the local area and is likely to facilitate landscape connectivity and contribute to fauna dispersal between larger isolated bushland fragments in an extensively cleared landscape. While it is noted that the proposed clearing will occur on the western side of the road, given the context of the landscape, the Minister considered that the application area may be important for the movement of fauna species within the local and broader region.

Using the Commonwealth offsets calculator, DWER calculated that an offset of approximately 5.11 hectares of native vegetation in "good" condition will sufficiently counterbalance the residual impacts of the clearing. The Minister was advised that DWER considered it impractical for the applicant to transfer the topsoil and vegetative material to the offset sites due to them being between 1.3 and 14 kilometres from the application area. There were also concerns regarding the potential to spread weeds and disease to the offset sites.

The applicant advised that using the topsoil and vegetative material at the offset sites was the preferred option, despite the initial costs of transfer from the application area. The applicant noted that given it is required to manage weeds at the offset sites anyway, the addition of the topsoil and vegetative material from the application area is unlikely to pose a risk. Furthermore, the applicant agreed that the revegetation at the offset sites will benefit from the addition of topsoil and vegetative material.

In this case, the Minister accepted the Appeals Convenor's advice that the benefits to revegetation from the use of retained topsoil and vegetative material are likely to outweigh the risk of introducing weeds, when combined with appropriate weed management. The Minister noted that condition 11 of the permit requires the applicant to undertake weed control activities to maintain a minimum 80% weed-free state by the end of the project maintenance period.

The Minister has therefore required that condition 11 be amended to require that the retained vegetative material and topsoil be used at the offset sites.

Monitoring

The appellant sought for the five-year monitoring period to be removed from the offset condition to align with the requirements in the completion criteria table under permit condition 11. In effect this would require the applicant to continue monitoring until the completion criteria have been met and maintained for two years (a minimum of three successive monitoring events).

Noting that revegetation is to restore vegetation that supports fauna movement across the landscape, DWER's intention for the five-year timeframe was to minimise the lag time in the

provision of fauna habitat. This is consistent with the WA Environmental Offsets Guidelines (2014) which notes that the lag becomes more significant when revegetation aims to replace the loss of native vegetation for fauna.

Having considered the appellant's concerns, the Minister agreed that condition 11 requires clarification, and decided that the condition should be amended to require the applicant to achieve revegetation completion criteria no later than five years after the commencement of revegetation. Once met, the completion criteria are required to be maintained for a period of two years. The two-year maintenance period ensures the revegetation is self-sustaining in the long term to adequately offset the impacts from clearing.

Given the above, the Minister was satisfied that DWER's assessment of the clearing permit application was appropriate, and the Minister accepted the Appeals Convenor's advice that the conditions be amended.

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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