



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 9210/1 VARIOUS LOTS, LEEUWIN ROAD WIDENING, LEEWIN, SHIRE OF AUGUSTA MARGARET RIVER

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 Augusta Margaret River
Proposal description:	The permit authorises the applicant to clear up to 0.4 hectares of native vegetation for the purpose of widening and reconstruction of Leeuwin Road
Minister's decision:	The Minister dismissed the appeal
Date of decision:	14 October 2021

REASONS FOR MINISTER'S DECISION

The Wildflower Society of Western Australia (appellant) submitted its appeal on 13 July 2021 objecting to the grant of Clearing Permit CPS 9210/1 to the Shire of Augusta Margaret River (applicant). The Department of Water and Environmental Regulation (DWER) granted the permit subject to conditions on 22 June 2021 authorising the clearing of up to 0.4 hectares (ha) of native vegetation, for the purpose of road widening and reconstruction.

By the appeal, the appellant sought for the permit to be refused until there are strategies implemented to provide protection for flora and fauna from traffic and people, and for integrated planning to occur that considers both conservation and tourism.

The appellant's concerns related to the high conservation values both within and adjacent to the application area and the sensitivity of the area, being a coastal landform contiguous with the Leeuwin-Naturaliste National Park.

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. The Minister also considered the conditions included on the permit are appropriate to manage potential risks to the environment.

It follows that the Minister dismissed the appeal. The full reasons for her decision are set out below.

Biodiversity values

The Minister noted the appellant's concern that the clearing is unacceptable as the application area and surrounds are in a sensitive coastal area with numerous biodiversity values. This includes a Priority Ecological Community (PEC) and conservation significant flora and fauna. The appellant also submitted that unmapped wetland communities should be documented.

The Minister was advised that based on flora, fauna and vegetation surveys, the applicant has iteratively reduced and modified the application area from ~1.6 ha of clearing to 0.4 ha. This resulted in avoiding areas of highest conservation value as much as practically possible while still meeting current road safety standards.

DWER advised that the proposed clearing will not significantly impact the species and communities noted in the appeal, including Chuditch, the Cape Leeuwin Freshwater Snail, Hooded plover (western), *Kennedia lateritia* or the *Melaleuca lanceolata* PEC.

The Minister was informed that a Chuditch was seen outside the application area during the fauna survey. However, given the species is highly mobile and able to disperse into the adjacent Leeuwin-Naturaliste National Park, impacts to any individuals are unlikely.

Regarding the Cape Leeuwin Freshwater Snail, the Minister noted that the application area contains 60 m² of suitable habitat. However, the Minister was advised that a targeted snail survey found no dead or living snails within the application area. As a precautionary approach, the Minister noted that the applicant has committed to maintaining the surface drainage patterns and site hydrology to maintain the snail habitat.

Regarding the Priority 4 Hooded plover (western) (*Thinornis rubricollis* subsp. *tregellasi*), the Minister was informed that the application area contains no suitable breeding habitat for this species.

The Minister was advised that the flora and vegetation assessments did not identify distinctive wetland vegetation or wetland characteristics that would indicate the presence of unmapped wetlands within or adjacent to the application area. Additionally, the flora and vegetation assessments did not record the threatened *Kennedia lateritia*.

The Minister also noted that the applicant proposes to clear up to 0.014 ha (across two patches) of the *Melaleuca lanceolata* PEC. Given the size proposed to be cleared and presence of the PEC in the adjacent Leeuwin-Naturaliste National Park, the clearing is unlikely to be significant.

Given the above, the Minister was satisfied that the impacts to the environment are not significant.

Indirect effects

The Minister noted the appellant's concern regarding the indirect effects of clearing on the surrounding environment, including the adjacent Leeuwin-Naturaliste National Park and coastal habitat. The appellant raised particular concern regarding weed encroachment and wind erosion given the coastal location, which would make rehabilitation challenging.

The Minister noted that condition 5 of the clearing permit requires weed and dieback management to reduce the risk of indirect effects on vegetation adjacent to the application area. Condition 5 requires the applicant to control weeds, at least annually along the Leeuwin Road reserve for a period of five years after road construction. The Minister considered this an appropriate approach to minimise weed encroachment into adjacent vegetation. Furthermore, the applicant has advised that it will implement a Weed Management Plan as part of the broader Construction Environmental Management Plan.

To minimise the risk of wind erosion, the applicant has advised that roadworks will commence immediately after clearing is undertaken. The applicant has further committed to implementing measures to minimise erosion along the road edge and banks, and areas adjacent to the Leeuwin-Naturaliste National Park. This includes adoption of a lower batter angle, and use of geostabilising materials and rock armour, where required.

Regarding revegetation, the Minister was advised that this was not required on the permit as all cleared areas will become part of Leeuwin Road, or in the case of road banks, be physically stabilised.

Given the above, the Minister was satisfied that the indirect effects have been appropriately considered and managed by the permit conditions. Additionally, the applicant has committed to continued consultation with the Department of Biodiversity, Conservation and Attractions (DBCA), which will be invited to inspect the site at any stage of the road widening project.

Cumulative impacts

The Minister noted the appellant's request that the road widening and future planned walk/cycle track be assessed concurrently given the high conservation and tourism value of Cape Leeuwin. The Minister was advised that DWER is aware of the future track project, however to date no referral for assessment has been received by DWER or the Environmental Protection Authority.

The applicant has acknowledged that a cumulative assessment of planned works along Leeuwin Road would have been preferred. However, due to project timelines, approvals, and budgetary constraints, it was unable to submit a clearing permit application that included both the road widening and walk/cycle track projects. The Minister was advised that the road widening project took priority due to road safety issues associated with an increase in tourism pressure on the 30 year old Leeuwin Road.

The Minister noted that DWER's assessment considered cumulative impacts through its consideration of the clearing principles which is consistent with current guidance. DWER's assessment identified impacts on multiple environmental values at both the local and species (or community) scale. This is most evident in clearing principles (a) and (e) but also principle (b).

Given this, the Minister considered that DWER's assessment of cumulative impacts in relation to the clearing permit application was appropriate and consistent with current guidance documents.

The Minister was informed that ongoing planning and management for tourism and conservation is being incorporated in the applicant's *Taalinup Boya Healthy Country Plan*. The plan is being developed by the Undalup Association which is a local Indigenous organisation representing the Wadandi people. The plan and associated works program will include strategies to provide protection for conservation significant flora, fauna and vegetation in the area, as well as ongoing planning and management for tourism and conservation along the Leeuwin Road reserve.

Other concerns

The appellant raised a number of other concerns related to activities that are outside of the application area. This included the clearing of native plant material at the entrance to the Lighthouse parking area, weeds growing in scraped earth, vehicles parking outside the two dedicated car parks and rubbish spread in the surrounding vegetation. For completeness the Appeals Convenor has provided some information about these matters in her report, however as they are beyond the scope of appeal, the Minister made no further comment.

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 appeal be dismissed.

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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