



Environmental Protection Act 1986

**Hon Reece Whitby MLA**  
**Minister for Environment; Climate Action**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST CONDITIONS OF CLEARING PERMIT CPS 9822/1 LOT 9693 ON DP 214205 AND HEPBURN AVENUE ROAD RESERVE, DUNCRAIG, SHIRE OF JOONDALUP**

#### **Purpose of this document**

This document sets out the Minister's decision on an appeal lodged under section 101A(3)(a) 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>	Mr Mitchell Sideris
<b>Permit Holder:</b>	Sanpro Construction Pty Ltd
<b>Proposal description:</b>	The permit authorises the clearing of up to 0.12 hectares of native vegetation.
<b>Minister's Decision:</b>	The Minister allowed the appeal in part.
<b>Date of Decision:</b>	23 January 2023

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

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An appeal was received from Mr Mitchell Sideris (the appellant) in relation to the conditions of the above clearing permit, granted to Sanpro Construction Pty Ltd, authorising the clearing of 0.12 hectares of native vegetation.

The permit was granted by the Department of Water and Environmental Regulation (the Department) for the purpose of temporary access for the construction of a new school building.

The appellant's main concern was the lack of certainty in the permit conditions relating to revegetation and rehabilitation of the site post-clearing. The appellant requested several amendments to the permit conditions with the intent of improving clarity around the permit holder's obligations.

## **Decision**

Having considered the information available to him, including the Department's response to the appeal and the Appeal Convenor's report, the Minister agreed with the Department and the Appeals Convenor that the permit should be amended to provide improved certainty and strengthen the outcome of rehabilitation and revegetation.

The Minister therefore allowed the appeal to the extent that condition 8 of the permit is modified in the manner set out below. The Minister also agreed with the Appeals Convenor that the definitions of the permit should be modified to clarify the required level of experience of the 'environmental specialist' and in respect to using seed and propagating material from as close to the site as possible.

The Minister requested the Department to give effect to this decision under section 110 of the *Environmental Protection Act 1986* as soon as practicable. The final wording of the conditions will be a matter for the Department in giving effect to this decision.

### **Revegetation and rehabilitation condition strengthened**

On the information available to him, and on the advice of the Department, the Minister determined to make the following changes to condition 8 of the clearing permit:

- require mulch to be used as part of rehabilitation, and for that mulch to be locally sourced
- require soil used to replace the removal of any road base associated with the temporary works to be of the same or similar soil type to the soil before clearing commenced
- require the permit holder to engage an environmental specialist to determine the species composition, structure and density of the area revegetated and rehabilitated after the revegetation and rehabilitation occurs, including a sufficient time after completion to ensure adequate survival (the criteria of which is to be determined by the Department in giving effect to this decision).

### **Definitions amended**

In addition, consistent with the Appeals Convenor's advice, the Minister requested the definitions in the clearing permit be amended to:

- include a definition of 'environmental specialist' that ensures the person(s) is sufficiently experienced in revegetation/restoration of vegetation on the Swan Coastal Plain
- add a note to the definition of 'local provenance' to the effect that seed and propagation material used in revegetation and rehabilitation should be obtained as close as possible to the area of clearing.

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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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