



Environmental Protection Act 1986

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

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 9856/1 LOT 14054 ON DEPOSITED PLAN 220953, CITY OF JOONDALUP**

#### **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 a 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 Mitch Sideris
<b>Permit Holder:</b>	City of Joondalup
<b>Proposal description:</b>	Clearing Permit CPS 9856/1 authorises the clearing of 0.005 hectares of native vegetation for the purpose of installing a new underground groundwater pipeline to provide geothermal heated water for waterbodies at the Craigie Leisure Centre
<b>Minister's Decision:</b>	The Minister dismissed the appeal
<b>Date of Decision:</b>	7 March 2023

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

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An appeal was received from Mr Mitch Sideris (appellant) objecting to the grant of the above permit by the Department of Water and Environmental Regulation (the Department).

The permit was granted to the City of Joondalup (permit holder) on 24 November 2022 for the clearing of 0.005 hectares of native vegetation on Lot 14054 on Deposited Plan 220953, Craigie, for the purpose of installing a new underground groundwater pipeline to provide geothermal heated water for waterbodies at the Craigie Leisure Centre.

Broadly, the Minister understood the appellant was concerned that the proposed clearing is inconsistent with the Bush Forever status of the land and will impact on a number of environmental values that could be avoided through an alternative approach.

## **Decision**

Having considered the information available to him, including the Department's response to the appeal, the Appeals Convenor's report, and submissions from the City, while the Minister acknowledged the high environmental values identified, he considered the Department's decision to grant the permit was justified, and the conditions applied in the permit were generally appropriate. On this basis the Minister decided to dismiss the appeal.

In coming to this decision, the Minister noted the permit holder's commitments to revegetate a nearby area at a ratio of at least 2:1 (consistent with the criteria set out in the Western Australian Planning Commission's *State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region* (State Planning Policy 2.8)), to undertake the restoration works in accordance with the *Craigie Bushland Management Plan* and to engage with local groups to ensure the restoration is undertaken to a high standard.

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

### **The clearing will impact on multiple values**

The proposed clearing is of a small area, but nonetheless will impact on multiple values. In particular, the Minister found that the proposal will impact on part of a significant habitat for threatened fauna and part of two threatened ecological communities, one of which is critically endangered.

The clearing will also impact on the values of an area that is identified through Bush Forever as regionally significant vegetation, and as set out in State Planning Policy 2.8, the Minister acknowledged that there is a general presumption against the clearing of Bush Forever sites.

It follows that the Minister agreed with the Appeals Convenor that the proposed clearing is at variance to clearing principles (b), (d) and (h) in Schedule 5 of the *Environmental Protection Act 1986*.

### **Clearing is consistent with reserve status and is for a public purpose**

State Planning Policy 2.8 provides that clearing within a Bush Forever reserve can be approved where the activity is consistent with the reserve status or is otherwise reasonably justified having regard to wider environmental, social, economic or recreational needs, and all reasonable alternatives have been considered.

In this case, the purpose of the clearing is to provide for piping of geothermally-heated water to the Craigie Leisure Centre. The Minister considered this to be consistent with the reservation of the land for 'parks and recreation' and that this activity is for a public purpose and benefit.

### **Alternatives were considered**

The Minister acknowledged the appellant's concern that insufficient regard was paid to the feasibility of alternative options to clearing, including horizontal direct drilling.

The Department advised that alternatives were considered. The City provided advice from its contractor that drilling was not recommended, citing a number of potential risks and additional costs.

On balance, the Minister accepted the Department's advice about the feasibility of the alternatives to clearing.

## **Revegetation offset to counterbalance impacts to Bush Forever**

State Planning Policy 2.8 sets out that unavoidable adverse impacts on regionally significant bushland within a Bush Forever area should be offset and provide for a net environmental gain.

The permit holder proposes to revegetate a nearby site within the same Bush Forever area with native species, and this is reflected as a requirement in the permit. The Minister was advised the proposed revegetation involves twice the spatial area as that proposed to be cleared, using a selection of native species planted at a stem density greater than that within the area proposed to be cleared. The Minister also understood that the proposed revegetation exceeds the minimum required under State Planning Policy 2.8.

## **Other matters**

On the other matters raised by the appeal, the Minister agreed with the Appeals Convenor's recommendations. Specifically on access to the flora and vegetation survey, the Minister understood there were good reasons for part of the document not being published. The Minister asked the Department to consider publishing redacted versions of such reports in future where appropriate.

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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*.

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