



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 9742/1 OLD VASSE ROAD RESERVE, SHIRE OF MANJIMUP

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:	Mr Julian Sharp
Permit Holder:	Shire of Manjimup
Proposal description:	Clearing of 0.45 hectares of native vegetation within the Old Vasse Road reserve
Minister's Decision:	The Minister dismissed the appeal.
Date of Decision:	31 March 2023

REASONS FOR MINISTER'S DECISION

One appeal was received objecting to the decision of the Department of Water and Environmental Regulation (the Department) to grant the above permit to the Shire of Manjimup.

The permit authorises the clearing of 0.45 hectares (ha) of native vegetation (including 24 trees) within a broader 2.8 ha footprint, within the Old Vasse Road reserve, Yeagarup, for road construction and hazard reduction.

The appellant submitted that the proposed clearing is not necessary, and will impact on several environmental, tourism and local amenity values, and sought for the permit to be revoked.

The appeal raises similar concerns as raised by appellants against the grant of Clearing Permit CPS 9333/1 for the clearing of 0.12 ha at the Old Vasse Road / Hawke Road intersection (Appeal 010/22), which is adjacent to the current permit under appeal. The Minister noted the appellant was also an appellant for that appeal.

Decision

Having considered the information available to him, including the Department's response to the appeals and the Appeals Convenor's report and recommendation, and noting that the purpose of the proposed clearing is to improve road safety, the Minister agreed that the Department was justified in granting the permit.

The Minister noted his determination of Appeal 010/22 on 1 November 2022 included modification of Clearing Permit CPS 9333/1 to add an offset requirement to counterbalance the significant residual impact on habitat for threatened fauna. The Minister noted the Department had applied a consistent approach to this permit, and considered no further changes to the conditions are necessary.

It follows that the Minister has dismissed the appeal.

The application area contains important environmental values

The appellant raised concerns about the impact of the proposed clearing on vegetation that is important aesthetically, and submitted that it is a significant Flora Road.

By its assessment the Department found the proposed clearing will impact on native vegetation in 'very good' to 'good' condition that includes suitable habitat for 11 conservation significant fauna species (including two 'Critically Endangered' species) and one threatened flora taxa, and presents a risk to the adjacent Warren National Park from the spread of weeds and dieback. The Department also found the broader footprint is part of a local ecological linkage, and was mapped by the Roadside Conservation Committee in 2005 as having 'High' to 'Medium High' value although it is not currently listed as a Flora Road.

The Minister considered the vegetation proposed to be cleared contains important environmental values. The Minister was satisfied the Department had adequate regard for these values and the potential impacts to them from the proposed clearing in its assessment.

The proposed clearing is for road safety and is consistent with planning context

The Minister noted the importance of the vegetation is also recognised in the *Shire of Manjimup Local Planning Strategy*, and was considered by the Department in its assessment. The Department found the proposed clearing of 24 trees within the broader footprint is unlikely to significantly compromise these values when considered against vegetation remaining within the road reserve and present on adjacent lands.

The Appeals Convenor advised the proposed clearing is consistent with the local and regional road planning frameworks, and is proposed to ensure Old Vasse Road is improved to a standard to meet the requirements for heavy vehicles (freight transport) and support tourism.

Under the Department's *A guide to the assessment of applications to clear native vegetation*, the necessity of proposed clearing is a relevant consideration for a decision on whether or not a permit will be granted. The guide further states that in determining the necessity of proposed clearing, higher priority will be given to proposed clearing for public use rather than private benefit or commercial gain.

Consistent with his determination for Appeal 010/22, the Minister agreed that the roadside vegetation has local amenity and tourism values, however he also accepted that while the proposed clearing is at variance to several clearing principles, the purpose of the proposed clearing is to improve road safety, which is for an important public purpose.

The decision to grant the permit subject to conditions was justified

From the information presented to him, the Minister considered the Department's decision to grant the permit was justified based on the necessity of the proposed works to improve road safety. Further, the Minister was of the view the conditions applied on the permit to manage and counterbalance the identified impacts are appropriate to ensure the proposed clearing does not lead to unacceptable environmental impacts, and no changes are needed.

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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