



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 9257/1 WARTON ROAD RESERVE, CANNING VALE AND HARRISON, CITY OF GOSNELLS

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 grant of 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:	Urban Bushland Council WA Inc.
Permit holder:	City of Gosnells
Proposal description:	The permit authorises the clearing of 0.69 hectares of native vegetation within the Warton Road reserve, Canning Vale and Harrisdale, for the purposes for road construction and upgrade
Minister's decision:	The Minister dismissed the appeal
Date of decision:	12 May 2022

REASONS FOR MINISTER'S DECISION

The Urban Bushland Council WA Inc. submitted an appeal objecting to the grant of clearing permit CPS 9257/1 to the City of Gosnells, authorising the clearing of 0.69 hectares (ha) of native vegetation at the above location.

The Minister understood that the appellant was concerned about the extent of the clearing, the environmental values within the application area and the adjacent Regional Park, and the suitability of clearing within a Bush Forever area.

Decision

Having considered the information available to him, including the Department of Water and Environmental Regulation's response to the appeal and the Appeals Convenor's report and recommendation, the Minister was satisfied that it was reasonable for the Department to grant the permit.

The Minister's reasons are set out below.

Environmental values of the application area

The appellant raised concerns about the significant environmental values represented within the application area, particularly the Priority Ecological Communities and habitat for endangered fauna species.

The Minister was advised that there are significant environmental values within the adjacent Jandakot Regional Park and that the 0.69 ha application area contains vegetation representative of the Commonwealth-listed Threatened Ecological Community '*Banksia Woodlands of the Swan Coastal Plain*' which is known habitat for the endangered Carnaby's cockatoo.

In considering an application to clear native vegetation, the clearing principles, planning instruments, and other relevant matters, as set out section 51O of the *Environmental Protection Act 1986*, are all relevant considerations.

While the Minister understood the appellant's concerns that the permit should not be granted if environmental values exist, or if the clearing is 'at variance' to clearing principles, it is the combination of a range of factors that guide the final decision making. One of these considerations is the purpose of the clearing and its consistency with planning instruments.

Consistency with planning instruments

The Minister was advised that the proposed clearing is located entirely within the gazetted Warton Road reserve. The clearing is for the purpose of road widening and road duplication, to improve the safety of road users, cyclists and pedestrians and accommodate the modelled increase in vehicle traffic. This outcome is consistent with the purpose of the Warton Road reserve.

Approximately 0.05 ha of the application area falls within the boundaries of Bush Forever area 253 – Harrisdale Swamp. As the appellant put forward in its appeal, State Planning Policy 2.8 *Bushland policy for the Perth Metropolitan Region* (SPP 2.8) therefore applies to this portion of the proposed clearing.

The Minister agreed that SPP 2.8 includes a general presumption against the clearing of Bush Forever areas, however, this presumption can be set aside if the clearing is justified by wider social needs. In this case, as the purpose is for improved road safety, the Minister was advised that the planning context supports the grant of the permit.

The Minister understood that SPP 2.8 also includes provisions requiring impacts to Bush Forever to be offset where reasonable and practical.

In this case, it is understood that the permit holder is required to protect and improve the quality of a 20 metre buffer along the new Regional Park boundary for 5 years, to ensure there are no additional "edge effects" as a result of the clearing. The permit holder will also install an artificial hollow to counterbalance the loss of one hollow with the potential to become breeding habitat in the future. In this context, the Minister considered that in this case an offset is not warranted.

In addition, the Minister was advised that the permit holder has committed to existing and ongoing revegetation of several Bush Forever areas within its local government area and has already planted 130 established trees suitable for black cockatoo habitat.

Based on the information provided to him, the Minister accepted that the clearing will have a public benefit through improved road safety, and that measures have and will be implemented to protect and conserve the remaining environmental values.

The Minister therefore considered that the Department's decision to grant the permit was justified and dismissed the appeal.

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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