



Environmental Protection Act 1986

Hon Reece Whitby MLA
Minister for Environment; Climate Action

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST CONDITIONS OF CLEARING PERMIT CPS 9296/1 LOT 2 ON DEPOSITED PLAN 14927, UDOC, SHIRE OF HARVEY

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 conditions 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 Warwick Boardman
Permit holder:	World Range Pty Ltd
Proposal description:	Clearing Permit CPS 9296/1 authorises the clearing of up to 8.6 hectares of native vegetation on Lot 2 on Deposited Plan 14927, Uduc, for the purpose of sand extraction
Minister's decision:	The Minister allowed the appeal in part
Date of decision:	13 June 2022

REASONS FOR MINISTER'S DECISION

Mr Warwick Boardman lodged an appeal objecting to the conditions applied on Clearing Permit CPS 9296/1, authorising the clearing of up to 8.6 hectares (ha) of native vegetation at the above location to facilitate sand extraction.

The Minister understood that the appellant was concerned about condition 8(c) on the clearing permit which exempts the permit holder from undertaking revegetation and rehabilitation of the land following sand extraction, and also about the inclusion of 0.01 ha of vegetation mapped as the 'Banksia Woodlands of the Swan Coastal Plain' ecological community in the area authorised to be cleared. The appellant sought for both condition 8(c) and the 0.01 ha portion to be removed from the clearing permit.

Decision

Having considered the information available, the Minister decided to allow the appeal in part, to the extent that condition 8(c) is removed from the clearing permit.

The full reasons for the Minister's decision follow.

Revegetation and rehabilitation

The Minister was advised that the permit holder originally applied to clear for the purposes of sand extraction and horticulture, however at that time had only received development approval for sand extraction. The Minister was further advised that for this reason, the Department of Water and Environmental Regulation (DWER) granted the clearing permit for the purpose of sand extraction only, subject to conditions.

Conditions 8(a) and 8(b) on the clearing permit require the permit holder to undertake revegetation and rehabilitation activities within 12 months of the land no longer being required for the purpose of sand extraction. Condition 8(c) provides an exemption from this requirement on the written approval of DWER.

DWER advised that the intent of condition 8(c) was to allow it to remove the requirement for revegetation and rehabilitation in the event that the permit holder obtained development approval for an alternative end land use (horticulture). DWER advised that on review, the permit conditions should be amended to better align with the purpose for which clearing is approved, and recommended the removal of condition 8(c).

The Minister noted the Appeals Convenor and DWER's advice that while the permit holder's application included horticulture as a purpose, horticulture is not specified in the permit as a purpose for which clearing is approved and has not been approved by the Shire of Harvey.

Based on this information, the Minister agreed with DWER and the Appeals Convenor that condition 8(c) should be removed from the clearing permit, and determined the appeal accordingly.

Banksia Woodlands ecological community

By the Appeals Convenor's report, the eastern perimeter of the clearing footprint includes 0.01 ha of native vegetation mapped as the 'Banksia Woodlands of the Swan Coastal Plain' ecological community (listed as 'priority' by the Department of Biodiversity, Conservation and Attractions, and as 'threatened' under the *Environment Protection and Biodiversity Conservation Act 1999*).

The Minister was advised that by its composition, the vegetation within the clearing footprint is not consistent with published values and attributes for the 'threatened' ecological community, and is not representative of this ecological community.

The Minister agreed with the Appeals Convenor that the clearing footprint does not need to be modified to exclude this area of vegetation.

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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