



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST REFUSAL TO GRANT CLEARING PERMIT CPS 7550/1: ROE TERRACE AND FREDERICK STREET ROAD RESERVES, BUSSELTON

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A(1)(a) of the *Environmental Protection Act 1986* in objection to the above refusal. 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:	City of Busselton
Applicant:	City of Busselton
Proposal description:	Proposed clearing of 0.497ha of native vegetation for the purpose of road construction and upgrades.
Minister's decision:	The Minister dismissed the appeal
Date of decision:	28 August 2019

REASONS FOR MINISTER'S DECISION

In April 2017 the appellant lodged an application (CPS 7550/1) for a permit to clear 0.497 hectares (ha) of native vegetation within Roe Terrace and Frederick Street road reserves for the purpose of road construction and upgrades.

Through its assessment, the Department of Water and Environmental Regulation (DWER) concluded that the proposed clearing is at variance to clearing principles (d) threatened ecological communities, (e) significant remnant in an extensively cleared area and (f) riparian vegetation, may be at variance to clearing principles (a) biodiversity, (c) threatened flora, (g) land degradation and (i) water quality, and is not likely to be at variance to the remaining clearing principles as outlined in Schedule 5 of the *Environmental Protection Act 1986*. On 7 March 2019, DWER refused to grant a clearing permit for the application.

The appellant appealed DWER's refusal to grant a clearing permit, submitting that the application is of strategic importance and that DWER's assessment of the potential impacts to the Commonwealth-listed Subtropical and Temperate Coastal Saltmarsh threatened ecological community (Saltmarsh TEC) was incorrect.

In considering the information presented in respect of the appeal, the Minister noted that DWER sought advice from the Department of Biodiversity, Conservation and Attractions (DBCA) on the environmental values of the application area and sought guidance on potential risks of the proposed clearing. DBCA advised that the application area contains the Saltmarsh TEC, and that this vegetation must be supported by groundwater tidal influence as it would not have survived on rainfall alone. DBCA further advised that the application area is part of a larger conservation category wetland and provides a buffer to an adjacent TEC. Based on this advice DWER concluded the proposed clearing is at variance to clearing principle (d) and considered that the application should not be granted.

The appellant submitted that the project is of strategic importance to the Strelly/Barlee/West link, however the Minister noted that the appellant did not provide detailed information to support this. The Minister also noted DWER's advice that the City's website and the Busselton Strategic Corridor overview maps do not appear to include this application area.

After considering the information presented in relation to this appeal, the Minister was satisfied that DWER appropriately assessed the environmental impacts of the proposed clearing, and that its conclusions were informed by the available information and advice provided by DBCA. The Minister was therefore of the view that DWER's decision to refuse to grant the permit was justified. It follows that the Minister 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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