



Environmental Protection Act 1986

**Hon Stephen Dawson MLC  
Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 7869/1 WANDERING-NARROGIN ROAD RESERVE, CONTINE, SHIRE OF CUBALLING**

#### **Purpose of this document**

This document sets out the Minister's decision on an appeal lodged under section s101A(4) of the *Environmental Protection Act 1986* in objection to 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](http://www.appealsconvenor.wa.gov.au).

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<b>Appellant:</b>	Wildflower Society of Western Australia (Inc)
<b>Permit Holder:</b>	Shire of Cuballing
<b>Proposal description:</b>	Clearing of 0.924 hectares of native vegetation for the purpose of road upgrades.
<b>Minister's Decision:</b>	The Minister dismissed the appeal.
<b>Date of Decision:</b>	22 January 2019

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

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Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Department of Water and Environmental Regulation (DWER), on the matters raised in the appeal. The Office of the Appeals Convenor discussed the appeal with the appellant, and has also discussed the issues raised in the appeal with the permit holder.

After considering the information provided during the appeal investigation, the Appeals Convenor reported to the Minister under section 109 of the Act. This report sets out the background and other matters relevant to the appeal.

In summary, the Minister understood that the appeal raised concerns in respect to impacts to a threatened ecological community (TEC), native vegetation within an extensively cleared area and avoidance and minimisation measures. The appellant was also of the view that the offset was not adequate.

The appellant submitted that the proposed clearing would clear a TEC and an ecological community with less than 30 per cent of its pre-European extent remaining, thus the clearing permit should not have been granted. DWER acknowledged that the proposed clearing would have significant residual impacts, through the loss of 0.28 ha of a TEC and 0.924 ha of a significant remnant within an extensively cleared area.

The Minister noted that the appellant was of the view that the proposed offset would not maintain nor improve the extent of the vegetation communities to be cleared, and thus does not counterbalance the impacts of the clearing. The Minister was advised that the offset location (Crown Reserve 2556) contains environmental values corresponding to those being lost as it is within the vicinity of the application area, contains the same Beard vegetation association, contains the same dominant vegetation types (wandoo and *Allocasuarina* spp.) and is mapped as containing the same TEC. The clearing permit requires the permit holder to secure 2.6 ha of the offset site by changing the purpose from 'gravel to 'conservation'.

The Minister noted that in its assessment, DWER considered mitigation and minimisation measures and made efforts to identify alternate options with the permit holder that may avoid potential habitat trees. However, the Minister was advised by DWER that in order to avoid the potential habitat trees a larger area of clearing would be required and that this was not the preferred option. Additionally, the clearing permit contains a condition requiring the permit holder to document its efforts to avoid and minimise clearing and demonstrate that there were no practical alternatives to the clearing (condition 7).

Taking into account the information before him, the Minister considered that DWER had regard to the issues raised in the appeal and that its assessment was appropriate and in accordance with the relevant policies. Therefore, the Minister was satisfied that DWER's decision to grant the clearing permit subject to certain conditions, including an offset, was justified and supported by the available evidence. It follows that the Minister dismissed the appeal.

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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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