



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST GRANT OF CLEARING PERMIT (CPS 7559/1) – BRAND HIGHWAY AND WANNAMAL WEST ROAD, SHIRE OF GINGIN

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 101A of the *Environmental Protection Act 1986* in objection to the grant of the above clearing 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.

Appellants:	WA Native Orchid Study and Conservation Group Inc; Wildflower Society of Western Australia (Inc)
Permit Holder:	Shawmac Pty Ltd
Proposal description:	Clearing of up to 1.9 hectares of native vegetation for road works, corner Brand Highway and Wannamal Road West, Shire of Gingin
Minister's Decision:	The Minister dismissed the appeals
Date of Decision:	19 September 2018

REASONS FOR MINISTER'S DECISION

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) in response to the appeals.

After considering the appeals, the Appeals Convenor reported to the Minister under section 109 of the Act and a copy of her report is available at www.appealsconvenor.wa.gov.au.

The appeals raised concern that the assessment of the proposal by DWER failed to adequately consider the potential for the application area to contain habitat suitable for multiple threatened species of flora. In that regard, the appellants submitted that the application area may contain suitable habitat for a number of threatened flora species, including threatened orchids. Appellants requested that further appropriately timed surveys be undertaken, and that the results of those surveys be used to avoid clearing of identified threatened species, with the impacts reassessed in terms of the suitability of the proposed offset.

In response to the appeals, DWER advised that it sought additional advice from the Department of Biodiversity, Conservation and Attractions (DBCA) as to whether the species identified in the appeals would likely be present in the application area. Following further investigations, DBCA advised DWER that the application area may contain suitable habitat for two threatened species, being *Drakaea elastica* and *Macarthuria keigheryi*. DWER recommended that the appeals be allowed to the extent that surveys for these species be undertaken, and that if found, conditions be applied to ensure they are avoided, together with an associated buffer.

Noting DWER's response, the permit holder agreed to undertake a survey for both species in July 2018. This timing aligned with the advice of DBCA, which recommended any such surveys be conducted in July or August.

As noted by the Appeals Convenor, the results of the survey were provided in late July, and updated advice was sought from DBCA. In response, DBCA confirmed that the survey was satisfactory, and concluded that the implementation of the proposal would be unlikely to affect the conservation status of either species.

Based on DBCA's advice in response to the additional survey, the Minister considered that DWER's decision to grant the permit was justified. Given that no threatened species have been identified, the application of additional conditions to avoid and offset impacts to these species are not required. It follows that the Minister dismissed the appeals.

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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