



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 1891/3: VARIOUS ROAD RESERVES, SHIRE OF BRIDGETOWN- GREENBUSHES

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section 101A(4) of the *Environmental Protection Act 1986* in objection to the grant of a 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.

Appellant:	Wildflower Society of Western Australia (Inc.)
Permit Holder:	Shire of Bridgetown-Greenbushes
Proposal description:	Clearing within various road reserves within the Shire boundaries
Minister's Decision:	The Minister allowed the appeal in part
Date of Decision:	24 April 2018

REASONS FOR MINISTER'S DECISION

The Minister received a report from the Department of Water and Environmental Regulation (DWER) in response to the appeal. The Minister also noted that representatives of the Office of the Appeals Convenor met with a representative of the appellant as part of the investigation, and discussions were also held with the permit holder, the Shire of Bridgetown-Greenbushes.

After considering the appeal, the Appeals Convenor reported to the Minister under section 109 of the *Environmental Protection Act 1986* (the Act).

The appeal raised a number of objections to DWER's decision, relating to fauna management, watercourses and wetlands, the need for the clearing, and the conditions applied.

In relation to fauna habitat, the appellant expressed concern that condition 9 of the permit was deficient, in that it only offers protection to habitat trees where one or more of four listed species is present at the time of the fauna inspection. The appellant stated that the absence

of fauna at the time of inspection did not mean that the habitat would not be required in the future, particularly given the cumulative effect of clearing. To this extent, the appellant submitted that the precautionary principle should be applied so that no potential habitat of threatened species is removed.

Condition 9 replaced condition 10 of the former permit. In response to this ground of the appeal, DWER advised that the change was made to modernise the condition, noting that there had been no change to the risk assessment for the identified fauna species.

The former condition 10, which had been in place for some years, differed from the new condition in that where nesting hollows were identified, the permit holder was required to avoid impacting on the trees, or if impact was unavoidable, to relocate the hollows to within a 10 kilometre radius. By contrast, as identified by the appellant, the new condition requires habitat trees to be avoided, but only where one of the four listed species is present at the time of the fauna survey.

Noting the above, and that the Shire has no objection to the former condition being reinstated, the Minister concurred with the Appeals Convenor that condition 9 should be deleted, and the former condition 10 reinstated.

As to the other matters raised by the appeal, the Minister considered that they relate to aspects of the permit that were not the subject of amendment by DWER in July last year, and as such, are beyond the scope of the appeal.

It follows from the above that the Minister allowed the appeal in part to the extent that condition 9 is deleted and replaced as described above. The Minister found that the appeal was otherwise invalid, and was dismissed accordingly.

DWER will give effect to the Minister's decision under section 110 of the Act in due course.

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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