



Environmental Protection Act 1986

**Hon Stephen Dawson MLC  
Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST GRANT OF A CLEARING PERMIT CPS 7736/1 RICHARDSON ROAD RESERVE, NORTHCLIFFE AND MEERUP**

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

This document sets out the Minister's decision on an appeal lodged under section 101A of the *Environmental Protection Act 1986* in objection to the grant of clearing permit CPS 7736/1. 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).

---

<b>Appellant:</b>	Wildflower Society of Western Australia (Inc)
<b>Permit Holder:</b>	Shire of Manjimup
<b>Proposal description:</b>	The clearing of 0.88 hectares of native vegetation for the purpose of road widening.
<b>Minister's Decision:</b>	The Minister allowed the appeal in part.
<b>Date of Decision:</b>	6 July 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) on the matters raised in the appeal. The Minister was advised that representatives of the Office of the Appeals Convenor met with the appellant and the permit holder to discuss the appeal, and also separately conducted a site visit.

After considering the appeal, the Appeals Convenor reported to the Minister under section 109 of the Act. The Appeals Convenor's report sets out the background and other matters relevant to the appeal.

In summary, the appellant raised concerns in regard to the lack of surveys undertaken, potential impacts to flora and fauna and the inadequacy of conditions. The appellant was particularly concerned that DWER relied on site photographs provided by the permit holder to determine vegetation condition and potential habitat for flora and fauna. The appellant submitted that a formal survey was required as the proposed clearing was potentially at variance with clearing principles (a) biodiversity, (b) fauna habitat and (c) rare flora.

In response to the appeal, DWER advised that in addition to the site photographs it had regard to Geographic Information System (GIS) datasets, the Department of Biodiversity, Conservation and Attractions' (DBCA) advice, a NatureMap search of the local area, aerial imagery to identify ecological linkages and the small scale of the clearing.

DWER used the GIS datasets to determine soil, landform and occurrences of conservation significant flora and fauna species within the local area. Based on the abovementioned and DBCA advice, which confirmed there were no records of threatened flora or fauna within the local area, DWER determined the proposed clearing was not at variance with clearing principles (b) fauna habitat and (c) rare flora.

The Appeals Convenor conducted a site visit of the application area during the appeal investigation and noted that the site photographs provided by the permit holder were only representative of a portion of the application area. As a result, additional photographs were provided to DWER and additional advice was sought on whether DWER's assessment would be altered by the site photographs of the other part of the application area.

In response to the advice request, DWER acknowledged that its assessment had relied on limited site photographs and subsequently undertook a site inspection. DWER determined through its site inspection that the native vegetation in the application area, as a whole, was in a degraded condition and that there were no trees containing hollows suitable for black cockatoos or dreys of the western ringtail possum. Having regard to the aforementioned, DWER considered that its assessment remained unchanged and the conditions applied were appropriate, subject to an additional condition it recommended in response to the appeal.

In this regard, the Minister noted the appellant's concerns about the inadequacy of the conditions of the clearing permit to ensure that clearing is avoided, minimised and ameliorated, and that DWER had recommended that the permit holder be required to keep records and report on the clearing undertaken to enable DWER to determine which trees were cleared.

In addition to the above, the Appeals Convenor recommended that the permit holder should also be required to record and report on the implementation of management conditions 6 and 7, relating to avoiding and minimising clearing and dieback and weed control, respectively.

Having regard to the foregoing, the Minister was of the view that DWER's assessment of the clearing permit application against the clearing principles was appropriate and supported by the available evidence, and that its decision to grant the clearing permit subject to certain conditions to minimise potential environmental impacts was justified.

After considering the information presented, the Minister allowed the appeal in part to the extent that the clearing permit be amended to include conditions as detailed above and in the Appeals Convenor's report.

The precise wording of the conditions will be a matter for DWER to consider in giving effect to the changes in accordance with section 110 of the Act.

The Minister otherwise 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*.

**Office of the Appeals Convenor**

Level 22, 221 St Georges Terrace  
Perth WA 6000  
Tel: (08) 6467 5190  
Fax: (08) 6467 5199  
[www.appealsconvenor.wa.gov.au](http://www.appealsconvenor.wa.gov.au)