



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST CONDITIONS OF CLEARING PERMIT CPS 8253/1: ROAD WIDENING, BAANDEE NORTH ROAD, SHIRE OF KELLERBERRIN

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A(3)(a) of the *Environmental Protection Act 1986* in objection to the conditions applied in 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.

Appellant:	Wildflower Society of Western Australia (Inc)
Proponent:	Shire of Kellerberrin
Proposal description:	Clearing Permit CPS 8253/1
Minister's decision:	The Minister allowed the appeal in part.
Date of decision:	27 May 2020

REASONS FOR MINISTER'S DECISION

The permit authorises the Shire of Kellerberrin to clear 2.8393 hectares (ha) of native vegetation to widen the Baandee North Road, subject to conditions including offsets to counterbalance significant residual impacts.

In this regard, the Department of Water and Environmental Regulation considered that the loss of 1.17 ha of the Commonwealth-listed *Eucalypt Woodlands of the Western Australian Wheatbelt* threatened ecological community (Wheatbelt Woodlands TEC), and 1.67 ha of a significant remnant within an extensively cleared landscape, could be addressed through an appropriate offset.

The Minister understood that the appellant considered the offset condition in the permit to be inadequate in area, and inadequate in the required species richness for revegetation. The appellant also raised that the location and extent of the offset sites are not identified in the permit. The Minister understood that the appellant was seeking for the offset requirements to be changed.

Decision

Having considered the appellant's concerns, the Department's advice, the Appeals Convenor's report and recommendations, and other relevant information, the Minister agreed with the Appeals Convenor's conclusions and allowed the appeal to the extent that the offset conditions are strengthened as follows:

- condition 9 of the permit is amended to state that 13.87 ha of Crown Reserve 33419 is attributed to the proposed clearing, which includes 5.75 ha of native vegetation consistent with the Wheatbelt Woodlands TEC in 'good to very good' or better condition and 8.12 ha of other native vegetation in 'excellent' or better condition
- condition 11 of the permit is amended to state that the permit holder must revegetate and rehabilitate 4.165 ha on Lot 306 on Deposited Plan 409422.

The reasons for the Minister's decision are set out below.

Determination of offset

The Department advised that it undertook three calculations to determine the suitability of the proposed offset using the *Commonwealth Offsets Assessment Guide*. The Department considered the significant residual impacts could be counterbalanced by:

- changing the purpose of 11.4 ha of Crown Reserve 33419 from 'Gravel' to 'Conservation', which includes 5.75 ha of the Wheatbelt Woodlands TEC and 5.65 ha of other native vegetation in 'excellent' condition
- revegetating 3.04 ha of Lot 306 to 'good' condition with species found in the Wheatbelt Woodlands TEC, and changing its purpose to 'Conservation'.

The Appeals Convenor advised that in examining the reasonableness of the scores applied by the Department in its calculations, the *Commonwealth How to use the offsets assessment guide* was consulted in the absence of published State guidance. The Appeals Convenor considered that most of the scores applied by the Department can be justified within the context of the Commonwealth guidance, however that some of the scores were inconsistent and require changing.

In this regard, the Appeals Convenor recommended changing the 'quality' scores applied in the calculations for the land acquisition component, and the 'quality' and 'risk of loss' scores applied in the calculation for the revegetation component. The detailed reasons for this recommendation are contained in her report.

The Appeals Convenor undertook revised calculations on the basis of the changed scores, and identified the minimum offset required to be:

- changing the purpose of 13.87 ha of Crown Reserve 33419 from 'Gravel' to 'Conservation', which includes 5.75 ha of the Wheatbelt Woodlands TEC and 8.12 ha (an increase of 2.47 ha) of other native vegetation in 'excellent' condition
- revegetating 4.165 ha (an increase of 1.125 ha) of Lot 306 to 'good' condition with Wheatbelt Woodlands TEC species, and changing its purpose to 'Conservation'.

The Minister noted the Department's advice that the offset location and extent will be published on the publicly available *WA Environmental Offsets Register*. However, the Minister was of the view that for transparency, conditions 9 and 11 on the permit should state the size of the offset required for the land acquisition and revegetation elements.

Species richness

The Department acknowledged the higher species richness identified through the appellant's NatureMap search, and advised that the results would have included species found across a variety of habitat types within a defined area.

The Department advised that species richness for the revegetation condition on the permit was determined through a reference site survey commissioned by the permit holder, which the Department considered to be consistent with its *A guide to preparing Revegetation Plan for Clearing Permits*.

The survey considered two sites containing vegetation in 'pristine' condition within Crown Reserve A10719 about two kilometres from the revegetation site, and a third site within the north-eastern corner of Lot 306 containing vegetation in 'very good to excellent' condition.

On the basis of the Department's advice, the Minister was satisfied that the revegetation requirement set out in the permit reflects an appropriate species richness to reasonably achieve revegetation in 'good' condition.

It follows from the above that the Minister allowed the appeal to the extent described. The precise wording of the conditions is a matter for the Department in giving effect to the Minister's appeal determination.

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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