



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 8166/1 BEDFORD STREET ROAD RESERVE, MOUNT HELENA, SHIRE OF MUNDARING

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A(4) of the *Environmental Protection Act 1986* in objection to the grant of Clearing Permit CPS 8166/1. 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.

Appellants:	John and Amanda Perlinski
Applicant:	Shire of Mundaring
Proposal description:	Clearing of 0.24 hectares of native vegetation for the purpose of road construction
Minister's decision:	The Minister dismissed the appeal
Date of decision:	19 August 2019

REASONS FOR MINISTER'S DECISION

The Shire of Mundaring (the applicant) is proposing to upgrade Bedford Street in Mount Helena by connecting two end points to make a through road along the road reserve.

Following assessment of a clearing permit application from the applicant to clear the relevant section of the road reserve, in March 2019 the Department of Water and Environmental Regulation (DWER) granted the clearing permit subject to conditions. The conditions include requirements to avoid, minimise and reduce the impacts and extent of clearing; implement fauna, dieback and weed management; and keep records and report on activities done in accordance with the permit.

The Minister noted that the key concerns raised in the appeal relate to the loss of biodiversity values and habitat for black cockatoos. In support of their position, the appellants submitted that DWER did not properly assess the condition of the native vegetation within the area proposed to be cleared. The Minister also noted the appellants' view that the clearing permit is inconsistent with the local town planning scheme, and that they have requested that the applicant consider an alternative proposal to establish a track along their firebreak for local traffic and thus avoid the need to clear native vegetation.

The appeal was investigated by the Appeals Convenor on the Minister's behalf, which included a meeting with the appellants, and a site visit with the applicant's representative.

In its assessment of the application, DWER found that the vegetation proposed to be cleared was in 'good to degraded' condition, and that the clearing was at variance to clearing principle (b) significant fauna habitat and unlikely to be at variance to the remaining clearing principles listed in Schedule 5 of the *Environmental Protection Act 1986* (the EP Act).

The Minister noted that in response to the appeal, DWER had reviewed its assessment and concluded that the condition of the vegetation within the application area is 'very good to degraded', with vegetation predominantly in a 'good condition'. DWER had advised however, that while some areas of vegetation within the application area are in a better condition than stated in the Decision Report for the permit, it would not have altered its assessment of the application against the clearing principles.

In relation to fauna, the Minister was advised that the clearing may lead to the loss of habitat trees that are suitable nesting habitat for black cockatoo species. On the information provided to him, the Minister was of the view that DWER gave adequate consideration to potential impacts to black cockatoos by attaching fauna management conditions to the clearing permit. In this regard, condition 4 requires the permit holder to engage a fauna specialist to inspect potential habitat trees and delay clearing until habitat trees are no longer in use (where identified as being occupied), and condition 5 requires the installation of artificial hollows to replace confirmed habitat trees, together with ongoing monitoring and maintenance.

In respect to the biodiversity values of the native vegetation proposed to be cleared and its significance as a remnant, the Minister was advised that the vegetation is not likely to support any rare flora and is not likely to be consistent with a threatened ecological community. The Minister noted that several Priority 3 and 4 flora species have been recorded within 10 kilometres of the application area, however the Minister was advised that the proposed clearing is unlikely to impact upon the conservation status of these species if they are present, given the limited extent of the clearing within a well-vegetated landscape.

In respect to the planning context, the Minister noted that the purpose of the clearing is consistent with the zoning of the area proposed to be cleared within the Bedford Street road reserve, which is zoned as 'other local roads' under the Shire of Mundaring Local Planning Scheme No. 4.

Finally, the Minister noted that the selection process for the road alignment and the merits of alternative options for the road extension is beyond the scope of DWER's assessment process.

After considering all of the information presented in respect to this appeal, the Minister was satisfied that DWER appropriately considered the environmental values of the native vegetation proposed to be cleared, and had regard to the clearing principles and for relevant planning instruments and other matters, in accordance with section 51O of the EP Act, in its assessment of the proposed clearing.

It follows that the Minister considered that DWER was justified in its decision to grant the clearing permit subject to certain conditions to minimise potential environmental impacts. The Minister therefore 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*.

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