



Environmental Protection Act 1986

**Hon Stephen Dawson MLC
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 8796/1 LOT 9004 ON DEPOSITED PLAN 402043, JOONDALUP

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 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:	Mitchell Sideris
Proponent:	Western Australian Land Authority trading as DevelopmentWA
Proposal description:	Clearing of 0.37 hectares of native vegetation for the purpose of bridge construction and commercial development
Minister's decision:	The Minister dismissed the appeal
Date of decision:	6 November 2020

REASONS FOR MINISTER'S DECISION

An appeal was received objecting to the grant of Clearing Permit CPS 8796/1 to DevelopmentWA by the Department of Water and Environmental Regulation (DWER). The permit is for the clearing of 0.37 hectares of native vegetation within the eastern portion of Lot 9004 on Deposited Plan 402043, Joondalup.

The appellant submitted that clearing of the permit area commenced in March 2020 prior to the grant of the permit and without DWER's knowledge. The appellant also submitted that DevelopmentWA intends to clear the western portion of Lot 9004 and given this DWER did not assess the correct area. For these reasons the appellant sought for the permit to be refused.

Having carefully considered the information provided to him, including the appeal, the advice of DWER, DevelopmentWA's response, and the Appeals Convenor's report and recommendation, the Minister considered that DWER's decision to grant the permit was justified.

The Minister agreed with the Appeals Convenor that the correct area had been assessed by DWER, being the eastern portion of Lot 9004 located on Injune Way. This is the area shown on Plan 8796/1 attached to the permit and described by DWER in its decision report.

The Minister noted that a subdivision approval has been granted, and that if the conditions of the approval are fulfilled the permit area will become Lot 827. Further information on this matter can be found in the Appeals Convenor's report.

The Minister was advised that in deciding to grant the permit, DWER had regard for information obtained from a flora and vegetation assessment of the area completed in July 2019. DWER determined that the size and location of the clearing, and the predominantly degraded condition of the vegetation present, meant that the clearing is not likely to lead to an unacceptable risk to the environment.

In relation to the commencement of clearing, the Minister noted that the appellant reported this to DWER and that DevelopmentWA advised a subcontractor cleared an area for the stockpiling of sand. The Minister was advised that the Department has since completed its investigation and understood the appellant was dissatisfied with the outcome. While the Minister noted the appellant's concerns, the investigation of complaints and the taking of enforcement action is a separate matter for DWER under the *Environmental Protection Act 1986* and beyond the scope of appeal.

The Minister noted that in assessing the permit, DWER relied on information obtained prior to the commencement of clearing. Based on that information, DWER came to the conclusion that the permit could be granted.

The Minister noted that DWER's *A guide to the assessment of applications to clearing native vegetation* (December 2014) sets out that pre-clearing values of vegetation are to be considered in situations where clearing of an application area has already commenced. Based on the available evidence, the Minister was satisfied that the clearing is not likely to lead to an unacceptable risk to the environment and a decision to grant the permit is justified.

The Minister therefore decided to dismiss 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) 6364 7990

Fax: (08) 6364 7999

www.appealsconvenor.wa.gov.au