



Environmental Protection Act 1986

**Hon Stephen Dawson MLC
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF A CLEARING PERMIT CPS 8782/1 VARIOUS LOTS DAMPIER, BURRUP AND MAITLAND CITY OF KARRATHA

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 CPS 8782/1. 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.

Appellant:	Conservation Council of Western Australia Inc.
Permit holder:	Woodside Power Pty Ltd
Proposal description:	Geotechnical investigations and associated activities for a proposed hybrid renewable power plant.
Minister's decision:	The Minister dismissed the appeal
Date of decision:	17 September 2020

REASONS FOR MINISTER'S DECISION

The clearing permit authorises the permit holder to clear up to 11.93 hectares (ha) of native vegetation for the purpose of geotechnical investigations and associated activities to inform the engineering design and construction planning for a proposed hybrid power plant.

The Minister understood that the Conservation Council of Western Australia (the appellant) was seeking for the permit to be refused on the basis that the Department of Water and Environmental Regulation (the Department) could not have established or considered the environmental values of the area due to inadequate flora and fauna surveys. The appellant submitted that any impacts to priority ecological flora species and communities; habitat for threatened and priority fauna species; watercourses and the adjacent Murujuga National Park are unacceptable.

The appellant also raised concerns about the level of detail provided to the public to allow for public comment on the application, and that the granting of the clearing permit provides implicit approval for the proposed hybrid renewable power plant. The Minister considered that these matters are beyond the scope of the Department's assessment of the application, and that of the appeal.

While the Minister noted the appellant's concerns, having considered the Department's advice on the appeal, the Appeals Convenor's report and other relevant information, the Minister considered that the Department's assessment of the application and its decision to grant the permit subject to conditions was justified. The Minister therefore decided to dismiss the appeal. The reasons for the Minister's decision follow.

Flora and vegetation

In its assessment of the flora and vegetation values of the application area, the Department had regard to relevant GIS databases and flora surveys and supporting documentation provided by the permit holder.

The Department advised that the field surveys undertaken by the permit holder divided the application area into northern and southern sections and advised that the surveys did not identify any flora species or ecological communities of conservation significance in the southern section of the application area. The Department advised that while the northern section was adequately surveyed, it acknowledged that the timing of the southern section survey was not optimal.

Relying on GIS databases and supporting information provided by the permit holder, the Department concluded that the application area contains the Priority 1 *Roebourne Plains coastal grasslands with gilgai microrelief on deep cracking clays* Priority Ecological Community (PEC), and a vegetation type of high conservation value referred to as Acacia woodlands (AcAx?Tt).

With regard to Acacia woodlands (AcAx?Tt), the Minister noted that the Department has applied condition 10 which prevents clearing of this vegetation type.

With regard to the PEC, the Department concluded that the clearing of 0.87 ha of the PEC scattered along the length of the application area, represents approximately 0.007 per cent of the local extent and is not likely to be significant. In addition, the Minister was advised that a supplementary wet season survey had since been undertaken which addressed the concerns identified in the original survey and confirmed the location and extent of the PEC as assessed by the Department.

Noting that the Department has included a condition requiring that the applicant clear no more than 0.87 ha of native vegetation representative of the PEC and the permit holder's advice that it will use the results of its supplementary survey to further reduce any impacts, the Minister was satisfied that the Department had sufficient information to establish the flora values present and impose appropriate conditions to limit the impacts to those considered in its assessment.

Fauna

The Department advised that the fauna survey undertaken for the application comprised a desktop assessment and a preliminary likelihood of occurrence assessment, followed by seven days of fieldwork conducted in June and July 2019. The Minister understood that the Department was satisfied that the survey was prepared in accordance with relevant published guidance.

The Minister noted that the fauna surveys were undertaken late in the season for migratory birds, however, based on the information provided to the Department, the assessment established the presence of four species of migratory birds, as well as the presence of other conservation significant fauna.

The Department found that the application area contained habitat types that are of value to the endangered northern quoll, the vulnerable Pilbara olive python and migratory birds (among other things). The Department considered that due to the limited extent of the clearing, that habitat for these species is not likely to be significantly impacted, however it imposed four fauna management conditions to mitigate any potential impacts. These conditions included requirements for the permit holder to:

- cover all boreholes at the end of each day and backfill upon completion and backfill all test pits on the day of drilling/excavating with excavated material
- undertake all activities during daylight hours to avoid impacts to nocturnal species
- conduct clearing in a slow progressive manner from one direction to the other to allow fauna to move into adjacent native vegetation ahead of the clearing activity
- avoid clearing of any vegetation associated with rock hills with exposed boulder piles within the application area to protect northern quoll habitat.

Watercourses

The Department agreed that the proposed clearing may impact riparian vegetation due to the presence of minor, non-perennial watercourses and ephemeral drainage lines within the application area. The Minister understood that approximately 0.31 ha of riparian vegetation is proposed to be cleared for access tracks to facilitate movement of vehicles within the application area. The Minister was advised there will be minimal mechanical clearing, and instead, the clearing will occur by vehicles 'driving over' the vegetation.

The Department's assessment concluded that clearing in small, scattered segments along the application area was not expected to have a significant impact on riparian habitat within the local area. The Minister noted that condition 9 on the permit requires the permit holder to not clear riparian vegetation of any watercourse or wetland within the application area for the purpose of temporary construction areas or extraction of borrow material, with the exception of minor access tracks.

Impacts to the National Park

The Minister understood that the boundary of Murujuga National Park is 190 metres from the closest point of the application area. The Minister noted the Department's assessment found there is a risk of weeds spreading in the national park as a result of the proposed clearing and the Minister agreed with the decision to impose conditions on the permit to reduce this risk.

Decision to grant the permit

Taking into account the above, the Minister considered that the Department had adequate information to assess the environmental values present in the application area and has imposed adequate conditions to the permit to ensure that any impacts are limited to those assessed and determined to be acceptable.

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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