



Environmental Protection Act 1986

**Hon Stephen Dawson MLC  
Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST GRANT OF A CLEARING PERMIT CPS 8195/1 EASTERN LINK, CITY OF BUSSELTON**

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

This document sets out the Minister's decision on appeals lodged under section 101A(4) of the *Environmental Protection Act 1986* in objection to the grant of Clearing Permit CPS 8195/1. 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>	Mr Vernon Bussell
<b>Permit holder:</b>	City of Busselton
<b>Proposal description:</b>	The permit authorises the clearing of 0.49 hectares of native vegetation within various land parcels in the City of Busselton, for the purpose of constructing the Eastern Link.
<b>Minister's decision:</b>	The Minister allowed the appeal in part
<b>Date of decision:</b>	19 September 2019

---

#### **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 also received a report from the Appeals Convenor. The Appeals Convenor's report sets out the background and other matters relevant to the appeal.

The City of Busselton (the City) applied to DWER for a permit to clear 0.49 hectares (ha) of native vegetation within a 1.25 ha footprint on various land parcels including Crown and road reserves, Busselton, for the purpose of constructing the Eastern Link. DWER's assessment identified environmental values impacted by the proposed clearing, including habitats of Carter's freshwater mussel (*Westralunio carteri*) and western ringtail possum (*Pseudocheirus occidentalis*), and vegetation growing in association with wetlands.

After considering the information provided to it, DWER granted the permit on 17 May 2019 subject to conditions, including requirements to minimise and mitigate the impacts of the proposed clearing, implement weed and dieback management measures, fauna translocations, measures relating to western ringtail possums, on-site revegetation, and offsets through revegetation and conservation tenure.

The appellant requested that the permit is not granted on the basis of the environmental values that would be impacted by the proposed clearing, and that alternatives to the Eastern Link are instead considered.

The appellant expressed concern about the impacts of the proposed clearing on wetlands providing habitat to Carter's freshwater mussels, waterbirds and other species, vegetation mapped as the Commonwealth-listed threatened ecological community 'Subtropical and Temperate Coastal Saltmarsh' (Coastal Saltmarsh TEC), and riparian vegetation and mature trees (including seven peppermint (*Agonis flexuosa*) trees) providing habitat to western ringtail possums.

DWER advised that on the basis of the extent of the proposed clearing and the vegetation condition (which it considered to be largely degraded), it determined that impacts from the proposed clearing on the values of the wetlands and the Coastal Saltmarsh TEC are unlikely to be significant.

The population of Carter's freshwater mussel within the project footprint will be temporarily translocated upstream, subject to approval from the Department of Biodiversity, Conservation and Attractions (DBCA) under the *Biodiversity Conservation Act 2016*, until water quality has returned to baseline levels following construction. DWER advised that revegetation under the bridge, as required by condition 13 on the permit, will contribute to re-establishing habitat and shade.

In relation to impacts on western ringtail possums, DBCA advised DWER that the proposed clearing would impact connectivity between areas of habitat on either side of the proposed bridge, and that affected individuals will require a method of dispersal. DWER advised that the measures specified in the permit will mitigate and counterbalance these impacts, which include pre-clearing inspection, translocation of individuals subject to approval from DBCA, on-site and off-site revegetation with suitable habitat species, and the installation of rope bridges within 12 months of the commencement of clearing to maintain linkages.

The Minister noted the Appeals Convenor's advice that the rope bridges should be installed as soon as possible in order to ensure minimal disruption to western ringtail possum movement between areas of habitat. In this regard, the Minister decided to strengthen the conditions to the extent that the clearing permit is amended to require the installation of rope bridges within six months of the commencement of clearing.

In relation to the consideration of alternative options to the Eastern Link, these are matters for the City.

Taking into account the information presented to him, the Minister was satisfied that DWER had sufficient information available to inform its consideration of the significance of impacts to environmental values associated with the proposed clearing, and that its decision to grant the permit subject to conditions to manage the impacts was justified. It follows that 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) 6364 7990

Fax: (08) 6364 7999

[www.appealsconvenor.wa.gov.au](http://www.appealsconvenor.wa.gov.au)