



Environmental Protection Act 1986

**Hon Stephen Dawson MLC
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEALS AGAINST GRANT OF CLEARING PERMIT CPS 7931/1 – SHELAMAR STATION, EIGHTY MILE BEACH, BROOME

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 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.

Appellants:	Environs Kimberley; Wildflower Society of WA
Permit Holder:	Shelamar Leasing Company Pty Ltd
Proposal description:	Purpose permit to clear not more than 490 hectares of native vegetation for horticultural purposes
Minister's Decision:	The Minister allowed the appeals in part
Date of Decision:	15 August 2018

REASONS FOR MINISTER'S DECISION

The appeals were investigated by the Office of the Appeals Convenor. This included seeking advice from the Department of Water and Environmental Regulation (DWER) in response to the appeals, as well as further discussions with officers in DWER.

The appeals raised concern about possible impacts to the declared rare flora species *Seringia exastia*, greater bilbies and wetlands. Appellants also submitted that in combination, a number of individual proposals such as this proposal have the potential to cause a significant adverse impact on the environment. One appellant submitted that offsets should have been applied to counteract the significant residual impacts identified. The other appellant raised concern about risks posed by horticultural developments of this kind promoting the spread of cane toads.

In relation to *Seringia exastia*, DWER obtained advice from the Department of Biodiversity, Conservation and Attractions (DBCA). In considering the proposed clearing, DBCA found that it was unlikely the species would occur in the application area, and that the unidentified species found were more likely to be the Priority 3 species, *Seringia katatona*. DBCA advised that *Seringia katatona* is more widespread and variable than previously understood, and downgrading of its conservation status has been recommended.

Based on this information, and noting that the proposal does not involve the removal of any identified *Seringia exastia* plants, the Minister considered that DWER's assessment was appropriate, and dismissed this element of the appeals.

In relation to the greater bilby, the implementation of the proposal will impact a local population of the species. DBCA recommended that targeted bilby pre-clearance survey/s be undertaken prior to any vegetation being cleared, and that should bilby be recorded, the clearing should be undertaken in a way that allows fauna species (including the greater bilby) to disperse and self-relocate away from the disturbance area.

DWER has recommended that the conditions relating to relocation of greater bilby be modified to specify that the permit holder be required to identify and inspect all burrows for signs of occupancy, and trap and relocate any individuals identified. In response to this recommendation, the permit holder submitted that prescribing 'trapping' as the specified method of relocation was not favoured, as this approach had the potential to cause distress and injury to bilbies. Rather, it recommended that where active burrows are identified through the pre-clearance surveys, a five metre buffer is applied and monitoring undertaken to identify bilbies self-relocating during the night.

The permit holder's suggested approach is consistent with DBCA's advice to DWER. It follows that the Minister allowed the appeals to the extent that the permit is amended to reflect DBCA's recommendations with respect to directional clearing towards remnant vegetation with sufficient buffers around areas of recent fauna activity, to allow self-relocation. The details of the changes to the condition will be a matter for DWER to consider in giving effect to this decision under section 110 of the *Environmental Protection Act 1986* (the Act).

In relation to potential impacts of the proposal to wetlands, the Minister did not consider that the clearing of native vegetation at this location will have any adverse effect on the identified wetlands. To the extent the appeal grounds raise concerns with the future land use rather than the clearing of the native vegetation, the Minister noted DWER's advice that impacts associated with water use are appropriately for consideration under other legislation, namely the *Rights in Water and Irrigation Act 1914*.

Similarly, concerns raised by one appellant in respect to land degradation relate to the future land use, and any land degradation risks posed by the act of clearing can, on the advice of the Commissioner of Soil and Land Conservation, be readily managed.

On the other matters raised by the appeals, the Minister considered the issues carefully, and determined those appeal grounds in accordance with the Appeals Convenor's recommendations.

It follows that the Minister allowed appeals to the extent that conditions relating to fauna management are modified to ensure they comply with DBCA advice. The appeals were otherwise dismissed.

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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