



Environmental Protection Act 1986

**Hon Stephen Dawson MLC
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST GRANT OF CLEARING PERMIT CPS 7662/1 JURIEN EAST ROAD UPGRADE, SHIRE OF DANDARAGAN

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 7662/1. 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:	Wildflower Society of Western Australia (Inc)
Permit Holder:	Shire of Dandaragan
Proposal description:	The clearing of up to 2.4 hectares of native vegetation on Jurien Road East, for the purpose of road upgrades.
Minister's Decision:	The Minister allowed in part the appeal
Date of Decision:	7 June 2019

REASONS FOR MINISTER'S DECISION

On 28 August 2018, the Department of Water and Environmental Regulation (DWER) granted a permit to the Shire of Dandaragan to clear up to 2.4 hectares (ha) of native vegetation for the purpose of road upgrades. In assessing the proposal, DWER found that the proposed clearing is at variance to clearing principle (f) watercourses and wetlands, and may be at variance to clearing principles (a) biological diversity, (c) rare flora and (d) maintenance of a threatened ecological community.

An appeal was lodged against the grant of the permit, and the appellant sought to have DWER's decision overturned, or in the alternative, that the conditions be strengthened in relation to the protection of rare and priority flora. The appeal was investigated by the Appeals Convenor on the Minister's behalf. The Appeals Convenor met with the appellant and the permit holder to discuss the appeal and sought advice from DWER and the Department of Biodiversity, Conservation and Attractions (DBCA) in response to the issues raised on appeal.

The appellant raised concern that four of seven priority species located within the application area may be significantly impacted by the proposed clearing. In particular, the appellant expressed concern that the proposal will directly impact 60 per cent of the local population of *Synaphea sparsiflora*, which is a Priority 2 species.

The Minister understood that the appellant was of the view that the permit should not have been granted as the application area is within a biological 'hot spot'; comprises a high level of biodiversity; and provides ecological linkages within a highly cleared landscape. The appellant also submitted that, should the permit be granted, conditions should be strengthened to afford further protection to conservation significant flora.

In its advice to DWER, DBCA noted that potential impacts to *Acacia retrorsa* (Priority 2), *Patersonia argyrea* (Priority 2), *Thysanotus vernalis* (Priority 3) and *Synaphea sparsiflora* (Priority 2) from the proposed clearing may be significant.

In relation to *S. sparsiflora*, DBCA noted that the species was previously unknown in this location, and is thereby potentially locally significant. DBCA's advice noted that direct impacts would be high (at 60 per cent of the identified plants) and, given that the majority of individuals appear to occur in proximity to the application area, indirect impacts may also be significant.

Based on DBCA's advice, the Appeals Convenor sought additional information from the permit holder in respect to impacts to this species. In response, the permit holder indicated that the proposed clearing will not directly impact as many of the population as reflected in the permit, and confirmed that direct impacts would be reduced to 18 individual plants, or 38% of the identified population.

In relation to indirect impacts to *S. sparsiflora*, DBCA recommended these be avoided through the application of appropriate buffers and management measures. Condition 8(a) of the permit requires the permit holder to demarcate all priority flora individuals and associated 10 metre buffer within the application area. The Minister understood that the 10 metre buffer is consistent with accepted practice with respect to priority species.

On the information available, the Minister allowed the appeal to the extent that condition 8(c) of the permit be amended to reduce the extent of direct impacts to *S. sparsiflora* from 29 to 18 individuals.

In relation to conditions, the Minister noted that DWER applied conditions in a manner recommended by DBCA. On appeal, DWER recommended that condition 8(a) be strengthened by including a reference to a 'suitably qualified person' to understand the demarcation of rare and priority flora and associated buffers.

In relation to the biological diversity of the area, and the value of the road reserve as an ecological linkage, DWER assessed these matters under clearing principles (e) relating to remnant vegetation and (h) relating to conservation areas. Noting DWER's advice that the remaining extent of vegetation in the Geraldton Sandplains Bioregion and Shire of Dandaragan is 45 and 44 per cent (respectively) of pre-European levels, and that native vegetation will remain between the application area and the adjacent conservation area, DWER's finding that the proposed clearing would not be at variance to these principles was considered to be justified.

Having regard to the information presented to him, the Minister considered that DWER's assessment of the clearing permit application was appropriate and its decision to grant the permit subject to conditions was justified. Notwithstanding this, the Minister agreed with the Appeals Convenor that condition 8 of the permit be amended in the manner described above, and allowed the appeal accordingly.

The precise wording of the amendments to condition 8 will be determined by DWER in giving effect to the Minister's decision under section 110 of the *Environmental Protection Act 1986*.

It was finally noted that the permit was granted prior to the repeal of the *Wildlife Conservation Act 1950* and consequential changes to the *Environmental Protection Act 1986* on 1 January 2019. The Minister requested DWER to amend the permit to update its content consistent with these changes, including updating references of rare flora to threatened flora.

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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