



Environmental Protection Act 1986

**Hon Stephen Dawson MLC
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST AMENDMENT OF CLEARING PERMIT CPS 6766/2 – LOT 4205 ON DEPOSITED PLAN 208196 KALOORUP, CITY OF BUSSELTON

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 101A(3) of the *Environmental Protection Act 1986* in objection to the amendment of Clearing Permit CPS 6766/2. 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:	M and D Pettersson
Permit Holder:	V and S Edwards
Proposal description:	Clearing of up to 3.6 hectares (ha) of native vegetation on Lot 4205 on Deposited Plan 208196, Kaloorup, for the purpose of sand extraction
Minister's Decision:	The Minister dismissed the appeal
Date of Decision:	21 August 2019

REASONS FOR MINISTER'S DECISION

The Department of Water and Environmental Regulation (DWER) issued the amended permit on 30 November 2018, with several changes being made to the conditions of the permit, including an extension to the timeframe in which revegetation is to be established by 12 months to 30 June 2019. Other amendments included new conditions requiring the permit holder to avoid, minimise and reduce the impacts and extent of clearing, keep records on activities and provide annual reports.

By the appeal, the appellants submitted that DWER should not have amended the permit on the basis that the permit holder has not complied with revegetation requirements to establish *Agonis flexuosa* (peppermint) trees. The appellants were concerned that the area proposed to be cleared may provide significant habitat for the critically endangered western ringtail possum (WRP). The appellants also expressed concern that the revegetation requirements of the permit are inadequate, and that an offset or larger amount of revegetation should be required.

The appeal was investigated by the Appeals Convenor on the Minister's behalf, which included a meeting with the appellants, and a site visit with the permit holder.

The Minister understood that the area proposed to be cleared contains mature peppermint trees with no understorey and is fragmented from other larger remnants of native vegetation. The Minister noted that in assessing the initial application for a permit, DWER undertook a site inspection and observed no WRP individuals, scats or dreys within the area proposed to be cleared. The Minister was advised however, that the area may possess habitat value to WRP and it has been classed as habitat class C, which is the lowest habitat category capable of sustaining viable populations of WRP.

In this regard, DWER had advised that the requirements under condition 3 (Fauna management) for the permit holder to engage a suitably qualified fauna specialist to be onsite at the time of clearing to identify, remove and relocate any WRP occupying the clearing area at the time of clearing would adequately mitigate potential impacts to WRP.

In relation to the appellants' concerns that a larger amount of revegetation should be required, DWER had advised that condition 2 (Revegetation and rehabilitation) is consistent with the rehabilitation requirements of the extractive industry licence issued for this project by the City of Busselton. DWER had also advised that these revegetation requirements would adequately mitigate impacts to potential WRP habitat resulting from the clearing.

On the appellants' concerns about the need for an offset, the Minister accepted DWER's advice that adequate mitigation measures were applied through the conditions of the amended permit, and that in this instance an offset was not required.

With regard to the appellants' concerns that the permit holder had not complied with revegetation requirements, the Minister noted that DWER undertook an investigation into the permit holder's non-compliance with condition 3 (Revegetation and rehabilitation) of Clearing Permit CPS 6766/1 and concluded that, as no clearing had been undertaken, no further action was required.

In relation to the other matters raised in the appeal, these are outlined in the Appeals Convenor's report.

In considering the information presented to him, the Minister was satisfied that DWER appropriately assessed the environmental impacts from the proposed clearing and that its decision to amend the clearing permit with conditions was justified. The Minister therefore 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*.

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