

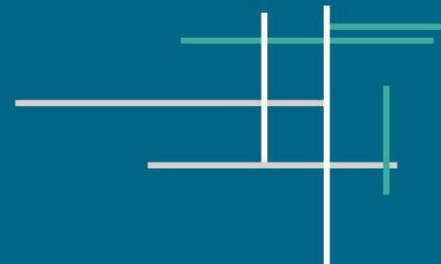


Government of Western Australia
Department of Water and Environmental Regulation

Environmental Protection Act 1986

Navigating the regulatory process
through case studies

WA Local Government Association Workshop – September 2023





Outline

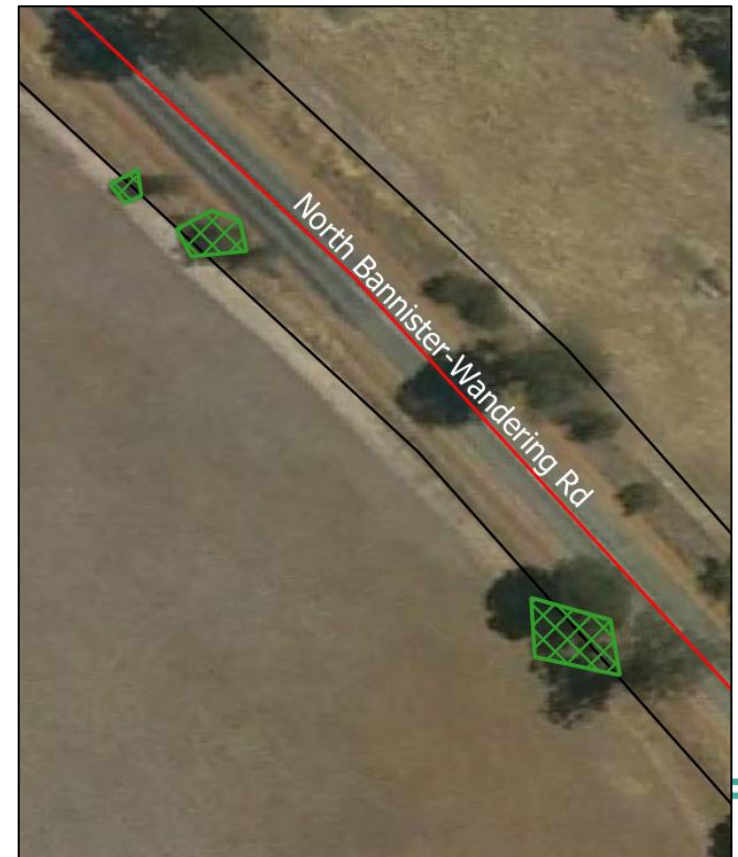
- Referral determinations
- Recent clearing permit decisions
- Appeals overview
- Recent appeal outcomes and trends
- Common application issues
- How to improve timeframes



Referral determination

REF 10090/1 – Shire of Wandering *Permit not required*

- Clearing of 3 trees within road reserve for road construction
- Submitted as Area permit, recommended withdrawal and submit as Referral
- Minimal impact to environmental values
- High vegetation retention in local area





Referral determination

REF 9789/1 – City of Albany

Permit required

- Clearing of 0.02 ha of native vegetation within road reserve for road upgrades
- Single tree (*Agonis flexuosa*) and understorey
- Within highly cleared landscape, likely habitat for WRP and impacting watercourse
- Conditions required – fauna management, weed and dieback management, revegetation for temporary clearing





Recent clearing permit decisions

CPS 9678/1 – City of Bunbury

- Clearing of 0.285 hectares of native vegetation (Typha) to improve the ecological values of the wetland
- Impacts to wetland (water quality and fauna habitat)
- Avoidance and mitigation:
 - Clearing limited to the Typha community only (identified as having invasive growth)
- Area permit granted (June 2022) subject to conditions:
 - Avoid, minimise and reduce
 - Weed and dieback
 - Fauna management – inspect vegetation for fauna, slow progressive directional clearing
 - Wetland ecology management – avoid the use of chemicals, remove cleared plant material from wetland
 - Reporting

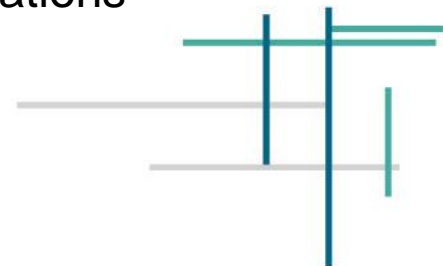




Recent clearing permit decisions

CPS 9373/1 – City of Busselton

- Clearing of 0.14 hectares of native vegetation to undertake road widening and maintenance works to improve the road safety.
- Impacts to threatened and priority flora, TEC and significant remnant vegetation
- Avoidance and mitigation:
 - Proposed infill planting within road reserve
 - Weed control measures
 - Provision of a CEMP
- Purpose permit granted (December 2022) subject to conditions:
 - Avoid, minimise and reduce
 - Weed control measures
 - Flora management – demarcation of significant flora locations
 - Infill planting within the road reserve
 - Slow directional clearing
 - Reporting

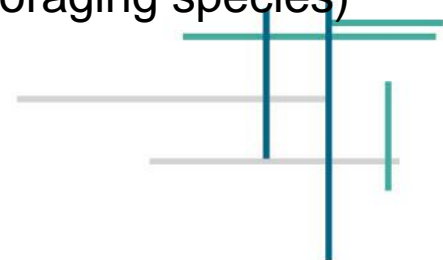




Recent clearing permit decisions

CPS 9827/1 Shire of Denmark

- Clearing of 26 native trees and the associated 0.04 hectares of native vegetation understorey for road upgrades to improve safety
- Impacts to black cockatoo habitat
- Avoidance and mitigation:
 - Amendments to road design to reduce impacts
 - Number of trees to be cleared reduced from 31
- Area permit granted (January 2023) subject to conditions:
 - Avoid, minimise and reduce
 - Weed and dieback
 - Directional clearing
 - Wind erosion management
 - Revegetation – mitigation planting of 40 seedlings (BC foraging species) within the road reserve
 - Reporting





Recent clearing permit decisions

CPS 9879/1

- Within the Shire of Augusta-Margaret River
- Clearing of 0.26 hectares for road construction and upgrades along Bussell Highway
- Impacts to WRP, brush-tailed phascogale and black cockatoo habitat
- Avoidance and mitigation:
 - area was reduced from 0.55 ha during the assessment phase
 - Avoidance of a potential black cockatoo breeding tree
- Purpose permit granted (March 2023) subject to conditions:
 - Avoid, minimise and reduce
 - Weed and dieback
 - Fauna management – pre-clearance surveys or WRP and phascogales
 - Offset - conservation and revegetation of 1 hectare of native vegetation (suitable species for WRP, phascogale and BC habitat)
 - Reporting



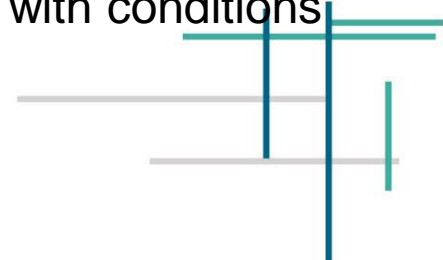


Strategic clearing permits

A strategic permit covers multiple activities and areas

Benefits

- Obtaining a single purpose permit for multiple activities.
- Reduction in the number of permits the LGA must obtain and comply with
- Reduced application fees
- Potential improved environmental outcome (i.e. assessment of cumulative impacts and strategic offsets)
- Reduction in resources necessary for administering the applications and permits
- DWER's early engagement with LGAs enables the identification of information that LGAs are required to obtain to support the clearing permit process
- More certainty about future works as approvals are in place with conditions which clearly set out requirements



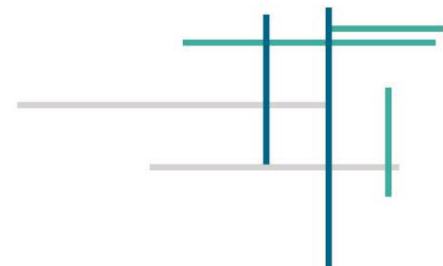


Strategic clearing permits

Different types of strategic permits can be designed to suit the specific requirements of LGAs. For example:

- A five-year plan
- Gravel pits
- Typha

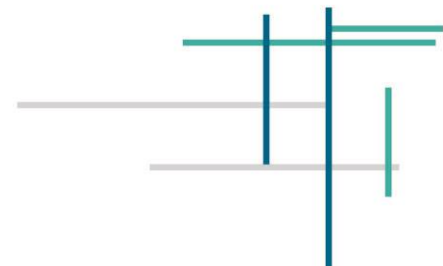
If your LGA is interested in a Strategic Purpose Permit, please contact Native Vegetation Regulation.





Strategic Permit - Typha Removal

- Both *Typha orientalis* (previously classified as naturalised in Western Australia) and *T. domingensis* are native to WA with both species capable of aggressive invasion that can transform wetland ecosystems unless actively managed.
- A clearing permit or exemption will be required to manage this species within its natural range.
- Several LGAs have a Typha permit.





Strategic permits – Shire of Esperance

CPS 9341/1

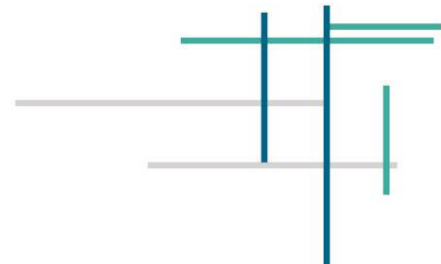
- Multiple clearing areas within multiple road reserves (specified in the permit)
- Purpose: defining drains and culvert outlets and re-sheeting and sealing existing road
- Impacts to priority flora, fauna habitat, ecological linkages, significant remnant vegetation and threatened ecological communities
- Purpose permit granted (April 2023) subject to conditions:
 - Avoid, minimise and reduce
 - Weed and dieback
 - Priority flora and fauna management conditions
 - Wind erosion management
 - **Offset** - conservation and revegetation
 - Reporting





Appeals

- Any person can appeal against the grant, conditions or amendment of a clearing permit (including the applicant/permit holder).
- Only the applicant/permit holder of a clearing permit can appeal a refusal, suspension or revocation.
- Appeals must be received within 21 days of the date of grant.
- No appeal rights for referrals.





Recent appeal outcomes

CPS 9333/1 – Shire of Manjimup

- Clearing of 1.32 ha of native vegetation on various roads within the Shire.
- Within an area with 68% native veg retention.
- Contains habitat for BC and WRP
- Through the appeal process, clearing area reduced to 0.12 ha.
- Minister required 0.43 ha of an LGA reserve to be vested for conservation to offset significant residual impacts.





Recent appeal outcomes

CPS 9237/1 – Shire of Augusta Margaret River

- Clearing of up to 1.5 ha of native vegetation within the road reserve.
- Located within an area with 41% native veg retention.
- Contains habitat for BC, WRP and impact linkage values
- Through appeal, clearing reduced to 9 trees
- Minister required planting of 31 trees that provide WRP and BC habitat within adjacent road reserve to offset significant residual impacts





Recent appeal outcomes

CPS 9742/1 – Shire Manjimup

Avoidance and mitigation measures

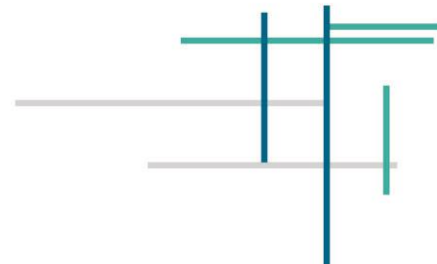
- Old Vasse Road is part of the Restricted Access Vehicle (RAV) network and does not currently meet requirements for heavy vehicles,
- Modification of the road design, reduced clearing from 35 to 24 trees. The applicant has stated that further changes would decrease road safety significantly
- Proposal to cede an area of 1.6 hectares of native vegetation containing habitat for WRP and BC foraging habitat to the conservation estate to offset impacts to these species.





Current trends for appeals

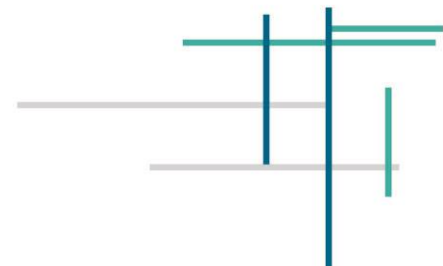
- Topics/concerns raised in public submissions
- Lack of avoidance and mitigation
- Lack of justification for clearing
- Impacts to
 - Significant remnant vegetation and ecological linkages
 - Fauna habitat e.g. Western ringtail possum and Black cockatoo species





Common clearing application issues

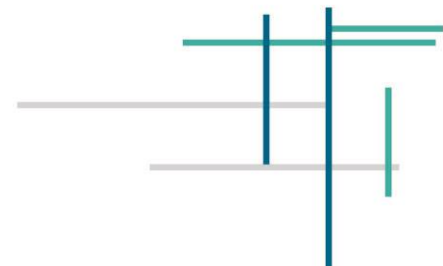
- Submitting applications close to funding expiry deadlines
- Application forms completed incorrectly or incomplete
- Incorrect fees paid
- Insufficient biological site information provided (flora/fauna surveys, photographs)
- Biological survey timing requirements (spring surveys for conservation listed flora)
- Avoidance or minimisation measures not described, sometimes not considered
- Incorrect application type
- No offset considerations





What to do to improve assessment timelines

- Engage with DWER early to discuss potential requirements
- Familiarise yourself with current DWER guidance
- Provide as much information on the clearing site as you can (identify potential environmental impacts)
- Identify necessity of clearing
- detail road design measures undertaken to avoid/minimise impacts (e.g. clearing/widening on one side of the road only)
- Consider available offset options where impacts are unavoidable
- Consider future projects – strategic applications





Government of **Western Australia**
Department of **Water and Environmental Regulation**

Thank you for your attention

**If you have any questions, you can
contact NVR**

info@dwer.wa.gov.au

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