

CLEARING OF NATIVE VEGETATION

5605. Hon Paul Llewellyn to the Parliamentary Secretary representing the Minister for the Environment

Regarding the clearing of native vegetation, I ask —

- (1) Is the Minister aware that between 28 August 2006 and 11 June 2007 the Department of Environment and Conservation (DEC) granted 59 native vegetation purpose clearing permits to Shires allowing them to undertake road maintenance, widening and related road work activities, and that these permits covered an area totalling over 1195 hectares of which over 525 hectares are located within the Southwest Australia Biodiversity Hotspot as defined by Conservation International?
- (2) If no to (1), why not?
- (3) Is the Minister aware that DEC assesses clearing proposals against ten clearing principles laid out in its Clearing Permit Decision Reports, and that in respect of all the Shires located in the Southwest Australia Biodiversity Hotspot, the permitted clearing was noted at being at variance with at least one and up to nine of these principles?
- (4) If no to (3), why not?
- (5) If yes to (3), can the Minister please provide the following information —
  - (a) how many permit applications that contained variances to the principles were approved;
  - (b) how many permit applications that contained variances to the principles were refused; and
  - (c) how many permit applications were subject to appeals by members of the public or organisations that represent them?
- (6) Of those permits in (5)(a), how many variances were contained in each?
- (7) Of those permits in (5)(c), —
  - (a) how many were upheld by the Minister or his predecessors; and
  - (b) against which Shire or Shires were the appeals upheld?
- (8) Of the permits referred to in (5)(c), how many had the area of clearing reduced as a consequence of an appeal?
- (9) Of the permits referred to in (1) how many contain conditions that require permit holders to provide the Chief Executive Officer (CEO) of DEC with a proposal for the re-vegetation and management of land to offset the loss of significant remnant native vegetation?
- (10) Of the permits referred to in (9), —
  - (a) how many total hectares are scheduled for re-vegetation under the offset conditions;
  - (b) how many permits have had these re-vegetations offset conditions fully met and have been inspected and approved by the DEC; and
  - (c) how many permits have not yet met their re-vegetation offset conditions and when are these conditions expected to be met?
- (11) Can the Minister explain why the clearing offset conditions referred to in (9), are not subject to public scrutiny and appeal?
- (12) The Auditor General's recent report on the Management of Native Vegetation Clearing states that the DEC has not been ensuring compliance re native vegetation clearing is being met. What steps has the DEC taken to ensure future compliance?
- (13) What is the DEC doing to ensure complaints about illegal clearing are promptly investigated?
- (14) The Auditor General's report also noted that the DEC was failing to investigate clearing that required a permit being undertaken illegally without one, as for example in the case of the Shire of Toodyay. What steps have been taken by the DEC to rectify this situation?
- (15) Since the publication of the Auditor General's report, has the DEC initiated any prosecutions for illegal clearing?
- (16) If no to (15), why not?
- (17) If yes to (15), —
  - (a) who are these prosecutions against; and

(b) for what are they being prosecuted?

Hon SALLY TALBOT replied:

- (1) Between 28 August 2006 and 11 June 2007, DEC advertised a total of 75 clearing permits which were granted to local governments to undertake clearing related to road works. The total maximum area that can be cleared under these permits is 1,229.5 hectares. Applications were received for 1,606 hectares of clearing and the area permitted was therefore reduced by 376.5 hectares. The duration of the permits granted to local government ranged from one year to 10 years.  
  
Of the 75 permits granted, 62 were purpose permits for a specified purpose, for example, road widening, for an area of 1,204.5 hectares, and 13 were area permits for a defined area of 25 hectares.  
  
Sixty two clearing permits were granted for an area of 620 hectares within the Southwest Australia Biodiversity Hotspot as defined by Conservation International. Of these, 50 were purpose permits for an area of 595.3 hectares and 12 were area permits for an area of 25 hectares.
- (2) Not applicable.
- (3) Applications for a clearing permit are assessed against a set of principles for clearing native vegetation which are listed in Schedule 5 of the Environmental Protection Act 1986. Assessments against each of the principles indicate whether the proposed clearing is either not at variance, not likely to be at variance, may be at variance, is at variance or is seriously at variance to the principle.  
  
Of the 62 permits granted for areas within the Southwest Australia Biodiversity Hotspot which were advertised by DEC between 28 August 2006 and 11 June 2007, 16 permits were assessed as being at variance to one or more of the clearing principles.
- (4) Not applicable.
- (5) (a) Sixteen permits were granted where the clearing was assessed as at variance with one or more principles.  
(b) None.  
(c) Of the 62 permits granted for areas within the Southwest Australia Biodiversity Hotspot, 22 were subject to appeals by members of the public or organisations that represent these. Twenty one of these appeals were for purpose permits and one appeal was for an area permit.
- (6) Of the 16 permits assessed as being at variance to one or more of the clearing principles, eight were at variance to one principle, four were at variance to two principles, three were at variance to three principles and one was at variance to five principles.
- (7) (a) Of the 22 appeals against granted permits within the Southwest Australia Biodiversity Hotspot, seven were allowed in part and 15 were dismissed. No appeals were upheld.  
(b) No appeals were upheld. The seven appeals that were allowed in part involved the following local governments:  

Shire of Brookton	Shire of Toodyay
Shire of Nannup	Shire of Wagin
Shire of Narrogin	Shire of York
Shire of Tambellup	
- (8) None.
- (9) For clearing permits granted to local governments and advertised between 28 August 2006 and 11 June 2007 inclusive, a total of 21 require the approval and implementation of an offset proposal where the permitted clearing is, or may be, at variance to one or more of the clearing principles contained in Schedule 5 of the Environmental Protection Act 1986. An additional 11 clearing permits include a condition that requires revegetation of an area other than land cleared under the permit.
- (10) (a) The offset condition requires the permit holder to develop an appropriate offset proposal having regard to 12 offset principles. The implementation of an approved offset proposal is required where the approved clearing is, or may be, at variance to one or more of the clearing principles in Schedule 5. Not all of the area approved to be cleared under a clearing permit would be at variance to the clearing principles. It is therefore not possible to determine the exact area of revegetation for offsets until the offset proposal is approved and implemented. DEC requires that the permit holder report offset activities annually for the life of the permit.

- (b) To 19 December 2007 offset proposals have been received for four of the 21 permits for which an offset condition was imposed. Of these, three have been approved.
- (c) Three offset proposals have been approved for the 21 permits for which an offset condition has been imposed. The timing for the submission of an offset proposal is dependent on the permit holder. Permits to which the offset condition applies require the approval of an offset proposal prior to the commencement of clearing. Conditions for revegetation do not require completion prior to the commencement of clearing, however, revegetation undertaken must be reported to the CEO annually.
- (11) Offset proposals do not form part of the condition of a clearing permit, rather they constitute what is produced in compliance with the condition. For this reason, the CEO does not have an obligation to publish the offset proposals in the manner prescribed in regulation 8 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.
- Conditions on clearing permits are subject to the appeal provisions under section 101A of the Environmental Protection Act 1986.
- The offset condition provides an incentive for the permit holder to minimise the impact of clearing in order to minimise the requirement for offsets, which are a direct cost to the permit holder. The offset condition as it is imposed is a policy instrument to reduce the impact of clearing on native vegetation with significant environmental values.
- Offset proposals may contain confidential material. DEC will provide third parties with approved offset proposals that would be available if an application under the Freedom of Information Act 1992 were made.
- (12) DEC is implementing a Compliance and Audit Strategy which aims to increase compliance, monitor compliance through regular inspections, identify contraventions, take appropriate enforcement action and create an effective deterrent to unlawful clearing. The two major aspects of this strategy that are being implemented initially are analysis of vegetation change in Western Australia using Landsat satellite imagery and subsequent follow-up inspections where appropriate, and compliance inspection program, including decisions and conditions of clearing permit applications.
- (13) DEC has recently employed two full-time native vegetation investigators and has reassigned some of the duties of existing officers to undertake additional investigations into complaints of unlawful clearing. In addition, DEC has developed a set of criteria to prioritise complaints of unlawful clearing.
- (14) DEC is currently undertaking a number of investigations into unlawful clearing. Inspectors authorised under the Environmental Protection Act 1986 are focussing on completing these investigations.
- These investigations relate to complaints identified through DEC's monitoring program which analyses vegetation change in Western Australia using Landsat satellite imagery, from public complaints and from potential breaches of application decisions.
- In addition to these investigations, DEC is developing a targeted inspection program based on information obtained through the satellite monitoring program and spatial density mapping of public complaints. The program will focus compliance resources on selected geographic areas or particular business sectors.
- (15) Yes.
- (16) Not applicable.
- (17) (a)-(b) Ms Helen Ruth Sampson of Neergabby pleaded guilty to a charge of unlawful clearing of 24 hectares of native vegetation in Midland Magistrates Court on 22 November 2007 and was fined \$5000 and ordered to pay costs of \$300.
- Mr Robert Klaasen is alleged to have cleared 477 hectares of native vegetation to implement a proposal that he was notified may not be implemented. The case is due to go to trial in March 2008.