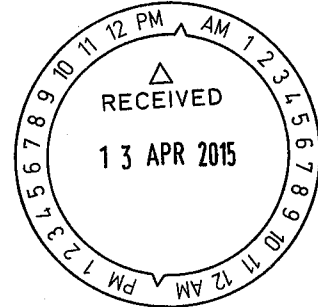




Hon Albert Jacob MLA
Minister for Environment; Heritage

Your Ref: Petition No 42
Our Ref: 50-07466



Hon Simon O'Brien MLC
Chairman
Environment and Public Affairs Committee
Legislative Council
Parliament House
PERTH WA 6000

Simon

Dear ~~Mr O'Brien~~

Thank you for your letter dated 12 March 2015 regarding advice on compensation for land owners within an environmentally sensitive area (ESA). The Department of Environment Regulation has consulted with the Department of the Premier and Cabinet, and I provide the following comments on behalf of the Government.

There are several provisions within the *Environmental Protection Act 1986* (EP Act) that potentially affect property owners, including regulation of clearing and emissions.

The clearing provisions of the EP Act (where clearing of native vegetation is an offence unless a permit is held or an exemption applies) mean that there is a presumption against clearing without authorisation

The most significant potential effect on property owners is when a clearing permit is refused, and the clearing cannot lawfully proceed. The effect of the clearing provisions for landholders who have ESAs on their property is the same for those who wish to clear native vegetation for which an exemption does not apply, that is a permit is required.

Given this approach to the clearing provisions, I would not support compensation that applied to property owners within ESAs.

Further, noting the Standing Committee's particular interest in grazing within ESAs, I requested an analysis of refused clearing permits which include a purpose of grazing. This analysis indicates that none would be exempt under item 14, regulation 5 of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*, even if they were not in an ESA.

Finally, as part of this Government's commitment to improving private property rights, Premier's Circular 2014/4 (A Private Property Rights Charter for Western Australia) outlines principles to ensure that proper regard is given to the rights of private land owners where the exercise of statutory powers may restrict the development or use of privately owned land. Relevantly, the Charter provides that public officials should only exercise such powers where they consider it to be justified, having regard to the appropriate balance between the interests of affected land owners and the interests of the broader community

Yours sincerely



Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

13 APR 2015