



Minister for Environment; Disability Services
Deputy Leader of the Legislative Council



Your Ref: Petition No 21 (A681079)
Our Ref: 62-07425

Hon Matthew Swinbourn MLC
Chairman
Standing Committee on Environment and Public Affairs
Legislative Council Committee Office
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Mr ~~Swinbourn~~ Matt

Thank you for your correspondence, received in this office on 12 April 2018, regarding Petition Number 21 – Shenton Park Hospital Redevelopment, tabled by the Member for North Metropolitan Region, Hon Alison Xamon MLC, in the Legislative Council on 12 September 2017. I note your request for information and advice relating to the Standing Committee on Environment and Public Affairs' (Committee) consideration of this petition.

As you will be aware, the clearing provisions of the *Environmental Protection Act 1986* (EP Act) require the clearing of native vegetation to be authorised by a clearing permit, unless the clearing is subject to an exemption. Exemptions for clearing that is a requirement of a written law, or authorised under certain statutory processes, are contained in Schedule 6 of the EP Act. Exemptions for low impact routine land management practices outside of environmentally sensitive areas (ESA) are contained in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (Clearing Regulations).

Proposals that are considered to be significant must be referred for consideration by the Environmental Protection Authority (EPA) under Part IV of the EP Act. The EPA also has a role in considering planning schemes and scheme amendments made under other legislation.

In assessing an application for a clearing permit, the Chief Executive Officer of the Department of Water and Environmental Regulation (DWER) considers 10 principles outlined in Schedule 5 of the EP Act. These principles broadly consider the environmental values of native vegetation, including biodiversity and conservation values, as well as any water quality and land degradation issues that may arise from the clearing of native vegetation.

A detailed description of methods used to assess clearing permit applications is available in the document *A guide to the assessment of applications to clear native vegetation, under Part V, Division 2 of the Environmental Protection Act 1986* (the Guide) which is available on the DWER's website at www.dwer.wa.gov.au.

Cumulative impacts from clearing native vegetation are considered as part of the assessment of clearing permit applications. As detailed in the Guide, cumulative impacts are predominantly considered by the DWER as part of Clearing Principle (e) – *Native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared*. In assessing proposed clearing against this principle, the DWER takes into account:

- the local extent of clearing (i.e. percentage remaining vegetation) within a defined radius of a clearing permit application area and the extent to which the proposed clearing might further reduce this extent;
- the remaining extent of vegetation assemblages, communities and associations mapped within the application area and the extent to which the proposed clearing might further reduce this extent. As part of this, the DWER considers the National Objectives and Targets for Biodiversity Conservation 2001-2005¹ which recognised that ecological communities should retain more than 30 per cent of their pre-clearing extent; and
- the remaining distribution of conservation significant flora and fauna species known or likely to occur within the application area, and the extent to which the proposed clearing might further reduce this distribution and population numbers.

As part of the assessment of clearing permit applications, the DWER may request that biodiversity (flora and/or fauna) surveys be conducted. The DWER may also seek expert advice from the Department of Biodiversity, Conservation and Attractions (DBCA) in relation to the quality of any surveys received, species likely to be present within the application area and the potential impacts of the proposed clearing.

Assessments of clearing impacts conducted under both Parts IV and V of the EP Act consider data produced by DBCA on the remaining extent of native vegetation complexes across Western Australia. The data specific to the Swan Coastal Plain and South West Forests have been updated by DBCA and published as the *2017 South West Vegetation Complex Statistics*, available at data.wa.gov.au. These statistics have also informed the development of sub-regional planning frameworks for the Perth and Peel regions which were recently endorsed by the State Government, and will continue to be used to inform future decision-making with regard to cumulative impacts.

In response to the specific questions raised in your letter:

1. Information on environmental considerations and processes that are part of the planning approval system should be directed to the Department of Planning, Lands and Heritage and/or the relevant local government authorities that administer these approvals.

¹ <http://www.environment.gov.au/resource/national-objectives-and-targets-biodiversity-conservation-2001%E2%80%932005>

Please note that exemptions from the requirement for a clearing permit exist for clearing which has been authorised through some types of planning approvals, specifically:

- Schedule 6, clause 2 of the EP Act provides an exemption for clearing that is done in the implementation of a proposal related to a scheme assessed by the EPA under Part IV of the EP Act.
 - Schedule 6, clause 9 of the EP Act provides an exemption for clearing in accordance with a subdivision approval given by the responsible authority under the *Planning and Development Act 2005*.
 - Regulation 5, item 1 of the Clearing Regulations provides an exemption for clearing, occurring outside of an ESA, for the lawful construction of a building or other structure.
2. The DWER is progressing options to improve transparency and public access to data relating to clearing permit applications. The DWER website will soon include data showing clearing areas approved and refused through decisions on clearing permit applications.

I understand that the EPA is considering approaches to better quantify the extent and condition of native vegetation across Western Australia prior to considering any improved methods of landscape protection.

3. I have requested that the DWER provide me with advice on improvements which could be made to the clearing provisions under the EP Act, including options for legislative and regulatory amendments.

Thank you for the opportunity to respond to the Committee's questions. I trust that this information assists with your deliberations on this Petition.

Yours sincerely



Hon Stephen Dawson MLC
MINISTER FOR ENVIRONMENT

09 MAY 2018