



Appeals Convenor

Environmental Protection Act 1986

REPORT TO THE MINISTER FOR ENVIRONMENT

**APPEAL IN OBJECTION TO THE DECISION OF THE DEPARTMENT OF MINES,
INDUSTRY REGULATION AND SAFETY TO REFUSE TO GRANT A CLEARING PERMIT**

**CPS 8069/1: EDNA MAY GOLDMINE EXPANSION AND
GREENFINCH PROJECT, SHIRE OF WESTONIA**

PROPONENT: EDNA MAY OPERATIONS PTY LTD

Appeal Number C016 of 2018

May 2019

Appeal Summary

This report relates to an appeal lodged by Edna May Operations Pty Ltd (applicant; appellant) in objection to a decision of the Department of Mines, Industry Regulation and Safety (DMIRS) to refuse to grant a clearing permit for its revised application CPS 8069/1 to clear 48.8 hectares (ha) of native vegetation within mining tenements M77/88 and M77/124, Westonia, for the purpose of development of mining activities.

On the basis of its assessment of clearing impacts, DMIRS identified that the revised application area contains native vegetation that is important for the survival of threatened flora and is within a significant remnant in an extensively cleared landscape, and that the proposed clearing would impact on fauna habitat, a wildlife corridor and approximately 33 ha of a threatened ecological community (TEC). DMIRS concluded that the proposed clearing is seriously at variance to clearing principle (c), is at variance to clearing principles (b), (d), and (e), may be at variance to clearing principles (a) and (h), is not likely to be at variance to clearing principles (g), (i) and (j), and is not at variance to clearing principle (f), and refused to grant a clearing permit.

The appellant submitted that DMIRS' decision to refuse to grant a clearing permit on the basis of its assessment is unreasonable and unjustified. Broadly, the appellant submitted that DMIRS failed to properly take into account the revised application and proposed offsets, incorrectly assessed the proposed clearing in respect of threatened flora, TECs and other biodiversity-related matters, and applied inconsistent decision-making compared with previous clearing applications for the development of the Edna May Gold Mine. The appellant is seeking for the Minister for Environment to allow the appeal and grant a clearing permit, subject to appropriate conditions including an offset package.

For the reasons stated in this report and based on the available evidence, the Appeals Convenor considered that DMIRS was justified in concluding that the proposal to clear 48.8 ha of native vegetation for the expansion of the Edna May mine and related purposes was seriously at variance to clearing principle (c), and was at variance to a number of other principles. Noting the identified values, and in particular the impacts to threatened flora as identified by DBCA, it is considered that the decision to refuse the permit was also justified.

The Appeals Convenor noted that the appellant submitted a modified footprint (26.3 ha) and offset for the proposed clearing, however, considered that this represented a substantial change that should be assessed as a fresh clearing permit application.

Recommendation

The Appeals Convenor recommended that the appeal be dismissed.

INTRODUCTION

This report relates to an appeal lodged by Edna May Operations Pty Ltd (applicant; appellant) in objection to a decision of the Department of Mines, Industry Regulation and Safety (DMIRS) to refuse to grant a clearing permit to clear 48.8 hectares (ha) of native vegetation within mining tenements M77/88 and M77/124, Westonia, to facilitate expansion of existing mining operations. The location of the proposed clearing is indicated in Figure 1.



Figure 1: Location map (indicated by red star)

(Source: Whereis.com, December 2018)

Background

In February 2018, a proposal to expand the Edna May Gold Project was referred to the Environmental Protection Authority (EPA). On 24 April 2018, the EPA determined not to assess the proposal, finding that the environmental issues raised by the proposal could be dealt with under Part V (clearing) of the *Environmental Protection Act 1986* (EP Act).¹

In May 2018, a proposal to clear up to 43.9 ha of native vegetation within a 62.4 ha footprint for the expansion was referred under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). On 6 August 2018, the Commonwealth Department of the Environment and Energy (DotEE) determined that the proposal was a controlled action in relation to impacts to listed threatened species and communities, requiring assessment (EPBC 2018/8213).

Also in May 2018, DMIRS received an application for a permit to clear up to 62.3 ha of native vegetation within mining leases M77/88 and M77/124 (within a portion of Crown Reserve R14983), Westonia.² In support of the application, the applicant submitted an offset proposal to address environmental impacts through revegetation of nearby ex-farmland and the contribution of funds to local and regional conservation initiatives. The extent of the original application area (62.3 ha) is shown in Figure 2.

¹ Available at: <http://www.epa.wa.gov.au/proposals/edna-may-gold-project-greenfinch-expansion>

² Clearing applications associated with mining and petroleum activities are assessed by the Department of Mines, Industry Regulation and Safety under a delegation from the Department of Water and Environmental Regulation in accordance with the provisions of the EP Act.



Figure 2: Original application area (indicated by yellow shading) (Source: DMIRS CPS 8069/1)

The application was advertised for a 21-day public comment period and three submissions were received raising concerns about potential impacts to biodiversity, vegetation, flora, fauna and the reserve, and the clearing principles.³

On 6 August 2018, DMIRS notified the applicant that the proposed clearing will impact on a number of environmental values and was unlikely to be considered acceptable. These values included (among other things) the threatened flora *Eremophila resinosa* (*E. resinosa*), the Commonwealth-listed threatened ecological community (TEC) 'Eucalypt Woodlands of the Western Australian Wheatbelt' (Wheatbelt Woodlands TEC) (critically endangered; comprising two State-listed priority ecological communities (PEC)), remnant vegetation in an extensively cleared area, significant habitat for indigenous fauna, and ecological linkages.

In response, the applicant submitted a revised application reducing the extent of the proposed clearing from 62.3 ha to 48.8 ha, and proposed an additional revegetation offset. The extent of the revised application area (48.8 ha) is shown in Figure 3.

On 1 November 2018, DMIRS refused to grant a clearing permit for the revised application. In communicating the decision to the applicant, DMIRS concluded that the proposed clearing was seriously at variance to clearing principle (c) due to impacts to threatened flora, and at variance to clearing principle (b) significant habitat for fauna, (d) due to the presence of a TEC and (e) significant remnant in a highly cleared area. It was against this decision that the appeal was received.

³ As listed in Schedule 5 of the EP Act and in accordance with section 51O of the EP Act.



Figure 3: Revised application area (indicated by yellow shading) (Source: Appeal document)

This document is the Appeals Convenor's formal report to the Minister for Environment under section 109(3) of the EP Act.

OVERVIEW OF APPEAL PROCESS

In accordance with section 106 of the EP Act, a report was obtained from DMIRS in relation to the issues raised in the appeal. During the appeal investigation, the Appeals Convenor consulted with DMIRS and the appellant in relation to issues raised in the appeal. The Appeals Convenor also undertook a site visit.

The appellant requested a copy of DMIRS' report on the appeal. The appellant made submissions in response to DMIRS' report, which included a further revision to the boundaries of the area to be cleared and a revised offset, with a reduction in clearing to 26.3 ha. The appellant requested that the Minister consider granting a clearing permit for the reduced area. As the modified footprint submitted by the appellant represents a substantial variation to the application considered by DMIRS (48.8 ha to 26.3 ha), it is considered that the implications of the change warrant fresh assessment against the clearing principles and other relevant matters. Further discussion relevant to this issue is provided later in this report.

The environmental appeals process is a merits-based process. For appeals in relation to a decision to refuse to grant a clearing permit, the Appeals Convenor normally considers the environmental merits of the assessment based on principles as set out in Schedule 5 of the EP Act, as well as other environmental factors. Questions of additional information not considered by DMIRS, technical errors and attainment of relevant policy objectives are normally central to appeals.

OUTCOME SOUGHT BY APPELLANT

The appellant is seeking for the Minister to allow the appeal and grant a clearing permit, subject to appropriate conditions including an offset package.

GROUND OF APPEAL

The appellant submitted that DMIRS' decision to refuse to grant a clearing permit for the revised application on the basis of its assessment is unreasonable and unjustified. The appellant's concerns are broadly summarised under the following grounds of appeal:

1. Threatened flora
2. Significant habitat for indigenous fauna
3. Threatened ecological communities
4. Significant remnant in an extensively cleared area
5. Offset of significant residual impacts
6. Consistency with other decisions.

The appellant sought to challenge DMIRS' findings with respect to its assessment of clearing principles in Schedule 5 of the EP Act generally. As the decision to refuse to grant the permit was based primarily on four principles (grounds 1 to 4 above), it is not considered necessary for this report to reach a concluded view on the alleged adequacy of DMIRS' consideration of principles that were not relevant to its final decision.

The appellant also raised concerns that DMIRS failed to adequately consider the reduced area of clearing and the objects of the EP Act. As the Minister is standing in the shoes of the original decision-maker in considering this appeal, the question as to whether or not the original decision-maker did or did not meet relevant legal requirements is not considered to be relevant to the Minister's decision on the appeal. These issues are considered under 'Other Matters' at the conclusion of this report.

GROUND 1: THREATENED FLORA

By this ground of appeal, the appellant submitted that DMIRS' findings that the proposed clearing is seriously at variance to clearing principle (c) is not supported because:

- the proposed clearing is unlikely to reduce critical habitat for *E. resinosa* nor result in habitat fragmentation and reduce cross-pollination between subpopulations;
- pre-stripping the soil seed bank is likely to result in a net environmental benefit for the conservation of the species; and
- translocations are an adequate replacement for maintaining the habitat and survival of the population, with translocations on ex-farmland being successful.

Consideration

At the time of DMIRS' assessment of the revised application, clearing principle (c) provided that 'native vegetation should not be cleared if it includes, or is necessary for the continued existence of, rare flora'.⁴ 'Rare flora' has the same meaning as given in section 23F of the *Wildlife Conservation Act 1950*.⁵

⁴ At the time of DMIRS' assessment of the revised application, clearing principle (c) in Schedule 5 of the *Environmental Protection Act 1986* referred to 'rare flora'. On 1 January 2019, provisions relating to threatened species under the *Biodiversity Conservation Act 2016* came into effect, replacing the previous provisions of the *Wildlife Conservation Act 1950*. This included replacement of 'rare flora' with 'threatened flora'. Because the decision the subject of this appeal predated the new provisions taking effect, the previous provisions are cited. In any event, the changes are considered to be of no substantive effect in respect to the status of *E. resinosa*, as the listing of that species as 'rare flora' in 2018 is carried forward as 'threatened flora' under the new Act (see regulation 169 *Biodiversity Conservation Regulations 2018*).

⁵ Ibid.

In this case, DMIRS found that the revised application area contains four *E. resinosa* plants, listed as rare under the *Wildlife Conservation Act 1950* and is ranked as 'endangered' under World Conservation Union (IUCN 1994) Red List criterion C2a due to the population size being less than 2,500 mature individuals, with continuing decline observed and no subpopulation estimated to contain more than 250 mature individuals.⁶

DMIRS concluded that the proposed clearing was seriously at variance to clearing principle (c) based on its findings that, while only four plants are proposed to be cleared, the proposed clearing would result in the removal of a substantial area of habitat for the species, with consequent impacts from fragmentation.

Section 51O(2) of the EP Act requires the CEO (and Minister on appeal) to have regard to the clearing principles when considering a clearing application. On the basis of the above information, it is common ground that the proposed clearing will directly impact rare (threatened) flora, and as a result, clearing principle (c) is a relevant mandatory consideration in a decision as to whether or not to grant a permit.

In the decision to refuse the permit, the impacts to *E. resinosa* were cited by DMIRS as the primary reason for the decision. Thus, DMIRS determined that it should not exercise its discretion in favour of granting the permit on the basis that (among other things) the impact to *E. resinosa* could not be mitigated and posed a significant threat to a species already under threat.

As noted above, by this ground of appeal, the appellant submitted (in essence) that the impacts to *E. resinosa* from the clearing were overstated because:

- critical habitat fragmentation is unlikely; and
- stripping and reuse of the soil seed bank and translocations have been shown to be successful.

Habitat fragmentation

The appellant submitted that while critical habitat for this species has not yet been mapped by the Department of Biodiversity, Conservation and Attractions (DBCA), it is estimated that the proposed clearing would impact only approximately 1.9 per cent of the critical habitat as mapped by its environmental consultant.

The appellant also submitted that the proposed clearing is unlikely to result in habitat fragmentation or reduce cross-pollination between sub-populations on the basis of the small number of plants within the revised application area, the unsuitability of the vegetation for pollinators due to previous disturbance, and the extent of critical habitat outside of the revised application area.

In response to this element of the appeal, DMIRS noted that the Recovery Plan describes the habitat critical to the survival of the species as including the area of occupancy for extant populations, areas of similar habitat surrounding important populations (as is necessary to allow access for pollinators and population expansion), and potential habitat. DMIRS advised that it therefore considered that the revised application area contains critical habitat for this species.

In relation to fragmentation specifically, DMIRS considered that the proposed clearing will fragment the larger native vegetation remnant both to the north and south of the mine:

Given there is already little connectivity to the north, it is the loss of the southern vegetation connection that will have the largest impact. Although the appellant has focussed on the loss of four plants, this figure illustrates how the habitat between Population 23a and Population 23c will be lost with the proposed clearing.

⁶ <http://www.environment.gov.au/biodiversity/threatened/recovery-plans/national-recovery-plan-resinous-eremophila-eremophila-resinosa> (accessed 5 April 2019).

Neither DMIRS nor the appellant were able to find published genetic studies on *E. resinosa*. Therefore, DMIRS relied on the expertise provided in the species recovery plan. Habitat fragmentation and reduced opportunity for pollinators was a possible explanation for the low levels of healthy seed in *E. resinosa* locules (Cochrane et al., 2002 in DEC, 2008).⁷

DMIRS also advised that a molecular analysis of vegetation function in fragmented Australian biomes⁸ used the common and widespread species *Eremophila glabra* subsp. *glabra*. DMIRS considered that the applicability of the research on a rare species with restricted distribution, including in relation to pollinators of *E. resinosa*, is uncertain.

Pre-stripping and translocation

The appellant argued that translocations are an adequate replacement for maintaining the habitat and survival of the population and are consistent with the Recovery Plan. The appellant submitted that previous translocations on ex-farmland have been successful, and that there are no known factors to suggest that they would not be sustainable in the long-term with appropriate management. The appellant submitted that DMIRS failed to give sufficient weight to the ongoing research program, trials, results and environmental benefits of translocations.

The appellant also submitted that *E. resinosa* is referred to as a 'disturbance opportunist' and by recovering the soil (seed bank) and using it in rehabilitation, this will increase the potential for germination of any *E. resinosa* seed stored still available in the soil seed bank.

In response to this element of the appeal, DMIRS advised that the data from the translocation trials on agricultural sites⁹ do not support the appellant's claim that translocations of *E. resinosa* on ex-farmland have been successful:

... Site 7 had patchy establishment with no obvious reasons as to why plants grew in some areas but not others. During 2017 it was recorded that there were 110 dead plants, with 260 alive. The number of dead plants had increased from 40 plants in 2016, to 110 plants in 2017, and some of the plants that were alive in 2017 were visibly stressed (Ramelius Resources, 2018). Site 8 was also patchy for unknown reasons although survival rates were higher (Ramelius Resources, 2018). Due to a lack of germination, Site 10 had not had a full survey undertaken at the time of the report (Ramelius Resources, 2018). Some of the plants in translocation sites 1-4 in native vegetation are in poor to moderate health and in decline (Ramelius Resources, 2018), which indicates that although there has been short to medium term success in native vegetation translocations, long term success and sustainability of populations had not been proven yet. The results provided in the translocation report support DBCA's (2018b) advice, and the conclusion reached in DMIRS decision report, that although the early stages of establishment of self-sustaining populations of the species has been demonstrated on disturbed natural areas, it is yet to be demonstrated on ex-farmland.¹⁰

DMIRS further advised that the suggestion that pre-stripping the topsoil prior to mining provides a net environmental benefit does not properly consider the critical habitat provided to the soil seed bank by the revised application area.

In advice to DMIRS, DBCA relevantly noted that while:

... many translocated *E. resinosa* plants have survived, translocations to areas of predicted inferred habitat are not an adequate replacement for maintaining the habitat and the survival of existing natural populations. The initial translocations have been basic in design, with some consisting of monocultures of *E. resinosa* plants growing in degraded sites with other native

⁷ DMIRS response to Appeal C016/18, pages 7-9.

⁸ As published in: Young, A., Broadhurst, L., Byrne, M., Coates, D., Yates, C., Field, D., Elliott, C., Llorens, T. and Nistelberger, H. (2009) *Molecular analysis of vegetation function in fragmented Australian biomes*. Land & Water Australia Project CPI 13, 30 June 2009. Commonwealth Scientific and Industrial Research Organisation and Department of Environment and Conservation, Western Australia.

⁹ As published in: Ramelius Resources Limited (2018) *Edna May Operations – Eremophila resinosa Translocation Sites – 2017 Annual Report*. January 2018.

¹⁰ DMIRS response to Appeal C016/18, pages 7-9.

species cleared regularly (by brush cutting) from the sites to remove competition. While there is demonstrated success in germinating and establishing the species in the short to medium term, these translocations are intensively managed sites and in the absence of full reestablishment of natural ecological processes the goal of translocated populations becoming self-sufficient and viable in the long-term will not be achieved. In 2016 a new translocation proposal moved towards incorporating *E. resinosa* as part of a broader landscape rehabilitation project, which may assist in gaining an improved understanding of the long term effectiveness of translocation for this species.¹¹

DBCA also noted that monitoring results conducted over translocation sites show that between 2010 and 2017, a substantial proportion of plants at each subpopulation were recorded as dead or lost (22% to 88%). DBCA suspected that the protection of the mine site may have contributed to altered fire regimes which could be resulting in natural senescence of the population:

This again highlights the need for protection of habitat where the species previously occupied for the long term conservation of the population remaining around Edna May mine site. It is not appropriate to rely on regeneration of the species in non-natural disturbed areas, as this will not be sustainable in the longer term with respect to maintaining other supporting ecosystem processes.¹²

Taking the above into account, it is considered to be common ground that the proposed clearing is at variance to clearing principle (c). Furthermore, given the status of the species, and advice from DBCA about the potential risks posed by the proposed clearing and the lack of evidence that translocation will replace the ecological values of the revised application area, it is considered that DMIRS was justified in determining the proposed clearing was seriously at variance to principle (c).

GROUND 2: SIGNIFICANT HABITAT FOR INDIGENOUS FAUNA

By this ground of appeal, the appellant submitted that DMIRS' conclusion in relation to clearing principle (b) is incorrect on the basis that fauna movement is already affected by Warrachuppin Road, no conservation-significance or short-range endemic fauna have been recorded, and the majority of fauna observed comprise mobile bird species. The appellant submitted that DMIRS has given too much weight to the MWH Australia Pty Ltd fauna assessment, and that fauna corridors are not completely severed or significantly impacted.

Consideration

Clearing principle (b) provides that native vegetation should not be cleared if 'it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia'.

DMIRS' assessment in relation to clearing principle (b) found that the revised application area contains a large amount of leaf litter accumulation which could support short-range endemic invertebrate species, and is located within the Westonia Common which is documented to have a high conservation value for birds and to be important for vertebrate fauna diversity. DMIRS concluded that the revised application area comprises a significant habitat for indigenous fauna.

In response to the appeal ground, DMIRS advised that it:

... considered the condition of the native vegetation providing the habitat. Part of the application area was mapped as disturbed by the MWH (2014) fauna survey while other parts of the application area were mapped as the following broad fauna habitat types:

- Mixed Woodland dominated by Red Morrel (*Eucalyptus longicornis*)
- Mixed Woodland dominated by Gimlet (*Eucalyptus salubris*).¹³

¹¹ DBCA biodiversity advice to DMIRS in relation to original application CPS 8069/1, dated March 2018, pages 1-2.

¹² DBCA biodiversity advice to DMIRS in relation to revised application CPS 8069/1, dated October 2018, page 6.

¹³ DMIRS response to Appeal C016/18, pages 5-6.

DMIRS advised that the report *Edna May Gold Project Clearing Permit (Purpose Permit) Application M77/88, M77/124 Native Vegetation Management Plan and Assessment of Clearing Principles*:¹⁴

... was provided for a clearing permit application of 20 hectares of native vegetation, of which 15 hectares was partially rehabilitated pre-disturbed land, directly adjacent to the existing mine (MBS, 2012). The DMIRS (2012) decision report for clearing permit CPS 4959/1 utilised the MBS (2012) report which stated that the application area for CPS 4959/1 comprises mostly disturbed, cleared or partially rehabilitated area with low habitat value. The decision report for CPS 4959/1 adds that fauna are likely to reside in undisturbed bush areas surrounding the mining operation rather than disturbed areas close to the pit. DMIRS contends that the majority of the application area for CPS 8069/1 is the undisturbed bush areas surrounding the mining operation that fauna would reside in. An aerial image of the application area for CPS 4959/1 is seen in Figure 2 of MBS (2012). The disturbance contrasts heavily with the less disturbed surrounding vegetation that constitutes part of the application area for CPS 8069/1. The vegetation of CPS 8069/1 extends past Figure 2, extending even further away from the existing operations.¹⁵

DMIRS noted that conservation-significant fauna is only a part of the assessment against clearing principle (b), and advised that:

... no conservation significant fauna species were recorded during the field assessment by MWH (2014) and the results of the targeted Carnaby's Cockatoo (*Calyptorhynchus latirostris*) habitat assessment suggest the application area is unlikely to represent an area of specific significance to the species (Harewood, 2018b). On balance however, DMIRS considered the importance of the habitat provided to native fauna by the application area still resulted in the proposal being at variance to Principle (b), despite the lack of conservation significant fauna recorded.¹⁶

In relation to the MWH Australia Pty Ltd fauna assessment, DMIRS advised that it:

... gave weight to the MWH (2014) fauna assessment that Edna May provided as supporting documentation to the application. The fauna assessment was undertaken by a qualified environmental scientist, with a specialty in zoology.

DMIRS also gave weight to another biological survey conducted in the Westonia Common (McLellan, 2008) and research on the impacts of clearing and reduced habitat connectivity (Prober and Smith, 2009). A biological survey of the Westonia Common recorded a high proportion of bird species that are declining or remnant dependent (32 species or 63% of species recorded) (McLellan, 2008). This indicates that the Westonia Common has high conservation value for birds. Therefore, DMIRS considers that the vegetation proposed to be cleared represents a significant habitat for fauna indigenous to WA, and that the fragmentation that would result from the proposed clearing would have an unacceptable impact on the fauna habitat value of the Westonia Common.¹⁷

As noted above, clearing principle (b) is triggered where the native vegetation proposed to be cleared comprises the whole or part of a significant habitat for fauna. The available evidence supports the values of the Westonia Common as being significant habitat for fauna, and that as a result, the vegetation proposed to be cleared forms part of a significant habitat for fauna.

Noting the extent of the proposed clearing, the condition of the vegetation (habitat) within the revised application area and its contribution to connectivity within the broader remnant, and the documented importance of the broader remnant to avian species, it is considered that DMIRS' conclusion that the revised application area is at variance to clearing principle (b) is justified.

¹⁴ MBS Environmental (Martinick Bosch Sell Pty Ltd) (2012) *Edna May Gold Project Clearing Permit (Purpose Permit) Application M77/88, M77/124 Native Vegetation Management Plan and Assessment of Clearing Principles*. Unpublished report prepared for Evolution Mining, dated March 2012.

¹⁵ DMIRS response to Appeal C016/18, pages 5-6.

¹⁶ DMIRS response to Appeal C016/18, pages 5-6.

¹⁷ DMIRS response to Appeal C016/18, pages 5-6.

GROUND 3: THREATENED ECOLOGICAL COMMUNITIES

By this ground of appeal, the appellant submitted that DMIRS' conclusion that the proposed clearing is at variance to clearing principle (d) is incorrect as the residual impacts may be addressed through revegetation with appropriate species, as (in the appellant's view) is supported by a flora assessment conducted by its environmental consultant which provides three years of monitoring data for rehabilitation of ex-farmland with TEC species and notes progression toward completion criteria.

Consideration

Clearing principle (d) provides that native vegetation should not be cleared if 'it comprises the whole or a part of, or is necessary for the maintenance of, a threatened ecological community'.

DMIRS' assessment in relation to clearing principle (d) found that approximately 33 ha (67.6 per cent) of the revised application area contains the Wheatbelt Woodlands TEC, representing approximately 1.5 per cent of the extent of the Wheatbelt Woodlands TEC within the Westonia Common. DMIRS concluded that the revised application area comprises the whole or a part of, and is necessary for the maintenance of, a TEC.

In response to this element of the appeal, DMIRS advised that:

There was approximately 39.1 hectares of the TEC within the original application area and Edna May proposed to reduce the amount of woodland to be cleared to 33 hectares, approximately 1.5% of the TEC vegetation in the local area (Edna May Operations Pty Ltd, 2018a).

The approved conservation advice for the TEC considers all patches that meet the criteria for the TEC, along with buffer zones, as critical to the survival of the community. This is due to the TEC occurring in a highly cleared and modified landscape (Department of the Environment, 2015). The TEC occurs mostly in small and highly fragmented patches. Remnants that are larger and spatially linked and act as wildlife corridors are even more important (Department of the Environment, 2015). The clearing permit application area is part of a larger remnant which is considered highly significant in the context of the conservation listing advice (DBCA, 2018b).

The proposed clearing, even with the reduced area, would fragment the TEC and the remnant of native vegetation that it is located within. As well as clearing 33 hectares, the proposed clearing would endanger the remaining TEC within the remnant with the severing of an important wildlife corridor.

Offsets are only considered for residual impacts, not when the proposal is unacceptable. The proposed clearing would impact a critical occurrence of the TEC, therefore, the proposed offset is not deemed appropriate.¹⁸

In forming its view that the proposed clearing is at variance to clearing principle (d), DMIRS had regard to the following advice from DBCA:

The Botanica Consulting report utilises [DotEE's] very approximate mapping of the TEC and John Beard's very broadscale vegetation mapping of Vegetation Association 536 to support an assertion that the clearing represents a very small proportion of the TEC and the Beard vegetation unit in the local area. However, the [application] area is part of a larger remnant that occurs in a highly cleared matrix. These larger remnants are relatively uncommon and considered highly significant in the context of priority areas for conservation of the TEC (refer pages 22, 25 of [DotEE's] Approved Conservation Advice ...

As to whether the appellant's proposed revegetation would satisfactorily address the effect of the clearing on the Wheatbelt Woodlands TEC, DBCA advised that the:

... effectiveness of these proposed northern revegetation areas in increasing connectivity is questionable. The revegetation of pastured lands is also likely to be at high risk of not succeeding for a number of reasons including high weed load, and nutrient enrichment from fertiliser use that stimulates weed growth, in particular. In addition, on basic principles the shape of the proposed

¹⁸ DMIRS response to Appeal C016/18, pages 9-10.

northern revegetation areas is flawed as edge effects such as weed invasion, wind speeds, hydrological alterations and other edge effects are maximised in narrow strips of vegetation.

The two southern areas proposed for post-mining revegetation would however help to re-establish the connectivity between the remaining areas of the TEC vegetation following mining. According to the EPBC offsets policy however, if post-mining revegetation is a standard requirement for mine proposals, then revegetation of mined areas could not be considered as part of the offset proposal. In addition, the substrate and other habitat characteristics such as hydrology would be altered by mining, and would increase the risk of revegetation being unsuccessful.

The above issues indicate that the risk of revegetation not succeeding in the long-term for most of the proposed rehabilitation areas is likely to be high ...

A further issue is that the proposed conservation covenants do not maximise tenure security for conservation management. Reservation and vesting of suitable nearby intact areas of the TEC in good condition with a land manager who will commit to long-term conservation management are likely to provide for far better offset outcomes in the longer term ...

The proposed clearing application is likely to result in significant impacts to the [Wheatbelt Woodlands TEC] ...¹⁹

Noting the extent of the proposed clearing, the condition of the vegetation within the revised application area, and DBCA's advice regarding the Wheatbelt Woodlands TEC, it is considered that DMIRS' conclusion that the revised application area comprises, and is necessary for the maintenance of, a TEC was justified. DMIRS' assessment in relation to clearing principle (d) found that approximately 33 ha (67.6%) of the revised application area contains the Wheatbelt Woodlands TEC, representing approximately 1.5 per cent of the extent of the TEC within the Westonia Common.

GROUND 4: SIGNIFICANT REMNANT IN AN EXTENSIVELY CLEARED AREA

By this ground of appeal, the appellant disputed DMIRS' conclusion that the native vegetation proposed to be cleared was at variance to clearing principle (e) on the basis that there is a high degree of disturbance and edge effects from weeds, and the adjacent Westonia Common contains vegetation in 'Good' condition, therefore the proposed clearing is not likely to further reduce ecological values, or result in significant fragmentation. The appellant submitted that the proposed clearing is also not likely to cause the current extent of the mapped vegetation association to fall below the 30 per cent recommended threshold for conservation.²⁰ The appellant also submitted that the residual impacts may be addressed through revegetation.

Consideration

Clearing principle (e) provides that native vegetation should not be cleared if 'it is significant as a remnant of native vegetation in an area that has been extensively cleared'.

DMIRS' assessment in relation to clearing principle (e) found that the proposed clearing will sever vegetation (ecological/fauna) linkages between the north-western and south-eastern portions of the Westonia Common and could increase edge effects, thereby reducing the ecological value of the broader remnant. DMIRS concluded that the revised application area is significant as a remnant of native vegetation in an area that has been extensively cleared.

In response to this element of the appeal, DMIRS advised that the available aerial imagery and vegetation extent statistics provide evidence of the large remnant and surrounding highly cleared landscape within which the revised application area is located. DMIRS also advised:

The proposed clearing will sever vegetation linkages between the northern and southern halves of the remnant [and] will create two smaller remnant vegetation blocks, at least temporarily. The northern portion is proposed to be revegetated while the southern section will only be partly

¹⁹ DBCA biodiversity advice to DMIRS in relation to revised application CPS 8069/1, dated October 2018, page 7.

²⁰ As outlined in: Environmental Protection Authority (2008) *Environmental Guidance for Planning and Development*. Guidance Statement No. 33, dated May 2008. Government of Western Australia.

revegetated (Edna May Operations Pty Ltd, 2018b). To minimise the loss of connectivity, Edna May (2018a) proposed to reduce the clearing permit boundary from 62.3 hectares to 48.8 hectares [which] would reduce the severing of the vegetation corridor to the north of the application area; however, the southern linkage would still be severed. Edna May further proposed to revegetate cleared farmland to the south of the application area. The proposed measures were considered by DMIRS to be insufficient to offset the loss of remnant vegetation.

The fragmentation of a large remnant of vegetation could reduce connectivity for fauna and increase edge effects. This would reduce the ecological value of the remnant vegetation in a region which is already highly fragmented. Fragmentation and isolation of populations of flora and vegetation from each other can impact the survival of populations, species and even ecosystems (Environmental Protection Authority, 2016). Therefore, DMIRS considers that the vegetation proposed to be cleared represents a significant remnant of native vegetation in an area that has been extensively cleared.²¹

The Department of Water and Environmental Regulation's (DWER) *A guide to the assessment of applications to clear native vegetation*²² (Guide to Assessment) states that clearing principle (e):

... aims to maintain sufficient native vegetation in the landscape for the maintenance of ecological values. It also recognises the need to protect ecological communities that have been extensively cleared and to retain a representation of each ecological community in local areas throughout its pre-European range. It is in this principle that the cumulative impacts of clearing within a particular area should be considered.

The *National Objectives and Targets for Biodiversity Conservation 2001–2005* recognise that the retention of 30 per cent or more of the pre-clearing extent of each ecological community is necessary if Australia's biological diversity is to be protected. This is the threshold level, below which species loss appears to accelerate exponentially and loss below this level should not be permitted. This level of recognition is in keeping with the targets recommended in the review of the *National Strategy for the Conservation of Australia's Biological Diversity* and in EPA Position Statement No.2 on Environmental Protection of Native Vegetation in Western Australia.²³

The Guide to Assessment provides examples of certain circumstances in which an extent greater than the 30 per cent threshold may be considered extensively cleared. These include naturally rare or restricted ecological communities, highly fragmented landscapes, vegetation required to maintain ecological processes or natural systems and degraded systems where there is less than 30 per cent of pre-European native vegetation in good condition (such as rangelands).

In this case, the decision report outlines that the mapped vegetation association within the revised application area retains approximately 35 per cent of its pre-European extent within the bioregion. While this statistic in itself is not below the recommended threshold outlined above, it is understood that DMIRS also took into account the likely impacts of the proposed clearing on the environmental values identified through its assessment (in particular against clearing principles (a), (b), (c), (d) and (h)), and the extent of clearing in the broader landscape as determined from available imagery, in assessing the application against clearing principle (e).

Noting the above, it is considered that DMIRS' conclusion that the revised application area is significant as a remnant in an area that has been extensively cleared is reasonable and supported by the available evidence.

GROUND 5: PROPOSED OFFSET OF RESIDUAL IMPACTS

By this ground of appeal, the appellant submitted that DMIRS has failed to consider that conditions are available to adequately address the significant residual impacts of the proposed clearing, and thereby improperly denied the appellant an opportunity to negotiate an appropriate offset. The

²¹ DMIRS response to Appeal C016/18, pages 10-11.

²² Available at: <https://www.der.wa.gov.au/our-work/clearing-permits/48-guidelines-clearing-permits>.

²³ Guide to Assessment pages 18-19.

appellant also submitted that DMIRS did not properly apply the WA Environmental Offsets Policy and Guidelines,²⁴ and did not properly consider the benefits of translocation.

Consideration

Under section 51(2)(b) of the EP Act, a clearing permit can be issued with a condition requiring the permit holder to 'establish and maintain vegetation on land other than the land cleared under the permit in order to offset the loss of the cleared vegetation'.

The WA Environmental Offsets Policy and Guidelines provide that offsets may be applied to counterbalance significant residual impacts that remain after avoidance and mitigation measures have been undertaken, but are not appropriate for all projects (determined on a case-by-case basis).

In this case, it is understood DMIRS invited the appellant to demonstrate how the environmental impacts of the original application (62.3 ha) would be avoided or minimised. Consequently, DMIRS considered the appellant's revised application (48.8 ha), including mitigation measures and the acceptability of the remaining environmental impacts, prior to assessing the suitability of the appellant's proposed offset.

DMIRS' assessment identified that the significant residual impacts of the revised application include:

- approximately 35.5 ha of native vegetation in 'Very Good' to 'Good' condition;
- four individuals and likely seed bank of, and critical habitat for, *E. resinosa*;
- approximately 33 ha of the Wheatbelt Woodland TEC; and
- severance of vegetation linkages between the north-western and south-eastern portions of the Westonia Common, potentially resulting in reduction in connectivity for fauna, increased edge effects and isolation of sub-populations of threatened flora, thereby reducing the ecological value of the broader remnant.

The appellant proposed the following offset package to counterbalance the above impacts:

- revegetation of ex-farmland with the aim of establishing a woodland in 'Good' or better condition, and establishment of a conservation covenant, over:
 - 70 ha on Lots 161 and/or 162 on Plan 202017 (north of the revised application area); and
 - 15 ha on Lot 1578 (south of the revised application area) to re-establish the southern linkage;
- improvement of 15 ha of red morrel woodland on Lot 161, and establishment of a conservation covenant over this area;
- contribution of up to \$10,000 per annum to local and regional environmental initiatives to protect and conserve local 'like for like' bushland to that proposed to be cleared; and
- maintenance or improvement of the biological diversity and ecological integrity of:
 - flora and vegetation protected under the EPBC Act; and
 - fauna and fauna habitats, in particular Carnaby's cockatoo, in the project area.^{25,26}

In response to the appeal, DMIRS advised that it reviewed the offset proposal and noted the following:

- The revegetation of farmland appeared to be a proposed offset for the Eucalypt woodland community, not specifically for *E. resinosa*. The success of revegetation for this Threatened species would include re-establishment of other ecosystem processes necessary for its long term survival, including the maintenance of pollinator species in the area. While the early stages of establishment of self-sustaining populations of the species has been demonstrated on disturbed natural areas, it is yet to be demonstrated on ex-farmland (DBCA, 2018b).

²⁴ Available at: <http://www.epa.wa.gov.au/policies-guidance/wa-environmental-offsets-policy-2011-and-guidelines>

²⁵ Application for a clearing permit, page 4.

²⁶ Applicant response to DMIRS' letter of 6 August 2018, dated 28 August 2018.

- There will be a time-lag and uncertainty in revegetating the southern farmland to provide habitat for *E. resinosa*, the TEC, and a wildlife corridor. During the period of revegetation there certainly will be fragmentation.
- DBCA (2018b) questioned the effectiveness of the proposed northern revegetation area to offset the impact to the TEC. The revegetation of pastured lands is likely to be at high risk of not succeeding for a number of reasons including high weed load and nutrient enrichment from fertiliser use that stimulates weed growth. In addition, on basic principles the shape of the proposed northern revegetation area is flawed as edge effects such as weed invasion, wind speeds, hydrological alterations and other edge effects are maximised in narrow strips of vegetation.
- ... the permanent disturbance footprint to the south has an oval outline for a pit and a red line surrounding it for the abandonment and noise bund. This will be a high pile of competent rocky material designed to prevent inadvertent access following the cessation of mining. Between the pit and the abandonment bund there is also a zone of pit instability. Although there is a small area of native vegetation left uncleared between the two red areas, it is designed to be inaccessible and it may collapse into the pit, in effect clearing the vegetation. The amount of clearing to be offset should consider the zone of pit instability.
- The additional southern offset farmland proposes 15 hectares of revegetation. This is substantially less than the impact of the habitat of the Threatened Flora.

... The decision report outlines how the proposed offset was regarded and deemed inappropriate due to the size and nature of the impact of the proposed clearing.²⁷

As a result of these findings, DMIRS concluded that the impact of the proposed clearing was such that an offset could not be justified and therefore the clearing permit was refused.²⁸

In relation to the translocation specifically, DMIRS advised that it:

... sought expert DBCA advice on the further information provided, including the revised offset. Most importantly, DBCA (2018b) confirmed its previous advice (DBCA, 2018a) that the area under application is considered to contain habitat important to the survival of the Threatened Flora species *E. resinosa*. DMIRS considered the threat posed by the proposed clearing is more than 'significant residual impact' as suggested by the appellant.²⁹

The WA Environmental Offsets Policy defines an environmental offset as:

... an offsite action or actions to address significant residual environmental impacts of a development or activity.³⁰

Offsets are intended to apply only to significant residual impacts, not minor impacts. They are also not applicable to all projects, and their application will be determined on a case-by-case basis.³¹

In relation to flora and vegetation, 'significant residual impacts' are defined to 'include those that affect rare and endangered plants and animals (such as declared rare flora and threatened species that are protected by statute).'³²

In this case, DMIRS found the clearing to be at variance to multiple clearing principles, including being seriously at variance to clearing principle (c). In the consideration (above) of the appeal in relation to clearing principle (c), it was concluded that DMIRS was justified in finding that the clearing was seriously at variance to that principle, noting the species is listed as endangered and the advice of DBCA about its current status and the success of re-established populations. Given the significance of the impact under principle (c) alone, it is considered that DMIRS was justified in forming the view that the impacts identified in this case were incapable of being offset.

²⁷ DMIRS response to Appeal C016/18, pages 14-16.

²⁸ Decision report for clearing application CPS 8069/1, pages 14-16.

²⁹ DMIRS response to Appeal C016/18, pages 17-18.

³⁰ WA Environmental Offsets Policy, 2011, page 2.

³¹ WA Environmental Offsets Policy, 2011, principle 2.

³² WA Environmental Offsets Guidelines, 2014, page 8.

GROUND 6: CONSISTENCY WITH PREVIOUS DECISIONS

By this ground of appeal, the appellant submitted that DMIRS was inconsistent in its assessment of the revised application compared with previous clearing applications for the development of the Edna May Gold Mine, in particular adjacent Clearing Permit CPS 4959/1 and its amendments for which the appellant submitted that the identified environmental impacts are not significantly different.

Consideration

The following permit decisions are relevant to this ground of appeal:

- Clearing Permit CPS 4959/1 – granted by the former Department of Mines and Petroleum (DMP) in June 2012, authorising the applicant to clear up to 20 ha of native vegetation within Mining Lease 77/88 and 77/124 for the purpose of mineral production. An appeal was received against the grant, concerned about destruction of local bushland, cumulative impacts, and lack of rehabilitation success. The then Minister for Environment dismissed the appeal.
- Amended Clearing Permit CPS 4959/2 – amended by DMP in August 2013, authorising the applicant to clear a further 6.4 ha (cumulative total 26.4 ha). An appeal was received against the amendment, concerned about inconsistency with the clearing principles, and risk of flooding. The then Minister dismissed the appeal.
- Amended Clearing Permit CPS 4959/3 – amended by DMP in April 2016, authorising the applicant to clear a further 0.78 ha (cumulative total 27.18 ha). No appeals were received.

The consolidated footprint of the area authorised to be cleared under the above amended permit is shown cross-hatched black in Figure 4.



Figure 4 – Area approved to clear CPS 4959/3

It is noted that during the assessments for the above permit and amendments, DMP found that the condition of the vegetation within the overall clearing footprint ranged from 'Good' to 'Completely Degraded', and that the proposed clearing was at variance to clearing principle (c) for impacts to a total of 323 individuals of *E. resinosa*, may have been at variance to clearing principles (a), (e) and (f), and was not likely to be at variance to the remaining clearing principles.³³

In response to this appeal ground, DMIRS advised that there is no inconsistency between its decision to refuse the application the subject of this appeal, and its earlier decisions in respect to CPS 4959:

The nearby Edna May clearing permits were reviewed by the assessing officer during the assessment of clearing permit CPS 8069/1. There was a notable similarity between the permits, being the presence of Threatened Flora *E. resinosa*; however, there were more significant differences between the application areas that lead to the different decisions.

Clearing permit CPS 4959/1 authorised the clearing of 20 hectares of native vegetation within an application area of approximately 20 hectares. Approximately 15 hectares of the 20 hectares applied to clear was partially rehabilitated pre-disturbed land including historic waste rock dumps. The remaining 5 hectares was native vegetation (MBS, 2012a). The original application area for CPS 8069/1 contained 43.9 hectares of native vegetation in good to very good condition (Botanica Consulting, 2018a). This is almost nine-fold the amount of native vegetation in CPS 4959/1. Even with Edna May's reduction in the amount of clearing proposed under CPS 8069/1, the revised amount of clearing (48.8 hectares) remains significantly larger than CPS 4959/1. The amendments to CPS 4959/1 were each relatively minor, with CPS 4959/3 approving a cumulative total of 27.18 hectares of clearing.

The flora and vegetation surveys for CPS 4959/1 and its amendments did not record any TECs or Priority Ecological Communities ... and the permits were granted prior to the listing of 'Eucalypt woodlands of the Western Australian Wheatbelt' as a TEC. That is the reason why this application was at variance to Clearing Principle (d) while the previous permits were not likely to be at variance to Clearing Principle (d). The proposed clearing of approximately 39.1 hectares, or the reduced 33 hectares, of the TEC is a substantial difference between the permits.³⁴

DMIRS advised that due to the larger extent of proposed clearing for the revised application (up to 48.8 ha), and for other reasons outlined in the earlier decision reports, it does not consider its decision to be inconsistent with its decision on other clearing applications at the site.

DMIRS also noted the following decisions of DWER in respect to two clearing permit applications:

- Application CPS 6908/1 – proposal to clear 65 ha for pasture and grazing in the Wheatbelt, reduced to 45 ha in response to concerns raised by DWER during the assessment. DWER considered the reduced clearing extent was still a significant size in a highly cleared and fragmented landscape, and refused to grant a clearing permit. The decision was appealed, and the then Minister dismissed the appeal.
- Application CPS 7516/1 – proposal to clear 14 ha for a sand mine, for which DWER refused to grant a clearing permit. Similarities with the revised application include location within a highly cleared IBRA bioregion and landscape, provision of an ecological linkage and habitat for conservation-significant flora and community, and previously disturbed areas of important vegetation. The decision was appealed, and the then Minister dismissed the appeal.³⁵

Taking into account the above, it is considered that DMIRS has had regard for the similarities and differences of the revised application area with the findings of previous assessments for adjacent clearing permits and other clearing applications with similar environmental impacts, and considered the environmental impacts of the revised application on its merits. This included taking into account contemporary knowledge about the environmental values of the native vegetation proposed to be cleared, including its status as part of a TEC which was unlisted at the time of the earlier decisions.

³³ Decision reports for clearing applications CPS 4959/1, CPS 4959/2 and CPS 4959/3.

³⁴ DMIRS response to Appeal C016/18, pages 16-17.

³⁵ Clearing applications and permits available at: <ftp://ftp.dwer.wa.gov.au/permit/>

FURTHER MODIFICATION OF CLEARING AREA

As noted above, the appellant submitted a proposal to reduce the clearing to 26.3 ha during the appeal investigation. The appellant advised that the reduced footprint considered various design options to identify the most acceptable re-alignment of Warrachuppin Road and to minimise the environmental impacts of the proposed clearing. The extent of the modified footprint is shown in Figure 5. The modified footprint purports to reduce the extent of proposed clearing by approximately 46 per cent. The majority of this modification appears to be attributable to narrowing areas of clearing adjacent to Warrachuppin Road and the mine abandonment bund.

As the modified footprint submitted by the appellant represents a substantial variation to the application considered by DMIRS (48.8 ha to 26.3 ha), it is considered that the implications of the change warrant fresh assessment against the clearing principles and other relevant matters. For example, an understanding of the likelihood that vegetation proposed to be retained between the bund and proposed mine pit will persist in the longer term would need to be considered, as well as consideration of the effect of the revised footprint on linkages and genetic transfer.



Figure 5: Modified footprint (indicated by yellow shading)

(Source: Appellant)

It is open to the appellant to lodge a fresh application to clear with DMIRS for assessment, which will be considered on its merits. Any decision of DMIRS to grant or refuse to grant a permit over a smaller area will be open to appeal by any person in the normal way.

OTHER MATTERS

The appellant raised other objections to DMIRS' decision-making process, including that it failed to take into account relevant matters, specifically measures to avoid, minimise and mitigate the impacts of the proposed clearing and a proposal to offset the vegetation proposed to be cleared.

The appellant also submitted that DMIRS has failed to take into account the objects of the EP Act which provides for:

... the conservation, preservation, protection, enhancement and management of the environment and for matters incidental to or connected with the foregoing.

The appellant referred to the EP Act definitions of 'environment' and 'social surroundings' in this regard, and submitted that there will be adverse economic and social consequences for the local community if a permit is not granted for the revised clearing application.

In responding to these issues, DMIRS advised that it took into account the revised application as well as all relevant considerations. In relation to the economic consequences of the decision, DMIRS advised that it:

... determined that the economic benefits of the mine were not materially relevant to the decision.

It should be noted that the proposed Greenfinch mine pit ... will only provide a 20 months extension to existing mining operations. Ramelius have also stated publicly that they are planning to expand the mine via alternative means, i.e underground mining.³⁶

Appeals in objection to a refusal to grant a clearing permit under the EP Act are 'merits' appeals and while matters relating to questions of law and process issues can be raised in appeals, in general, the focus of investigations is on the substantive environmental matters raised in respect to the decision. In relation to the appellant's concerns regarding relevant matters, the appellant has, through the appeal process, had the opportunity to have the merits of DMIRS' decision considered afresh, and through this process it is considered that the appellant has been afforded procedural fairness.

In any event, the available information confirms DMIRS had regard to the revised application in its assessment, and took into account the reduced impacts associated with the revised application.

As to the application of the object of the EP Act by DMIRS, this is a legal question and not one which forms part of the Minister's appeal jurisdiction. Nonetheless, in investigating this appeal, the Office of the Appeals Convenor has considered the object of the EP Act, the guiding principles, and the requirements of section 51O in the context of the issues raised in the appeal.

CONCLUSION AND RECOMMENDATION

After considering the information provided in the appeal, additional information provided by the appellant, relevant guidelines and the advice of DBCA provided to DMIRS as part of the assessment, it is considered that DMIRS' assessment of the application had appropriate regard to the environmental values of the area proposed to be cleared, and in particular of impacts to the threatened flora *E. resinosa*, Wheatbelt Woodlands TEC, the significance of the application area as a remnant, and impacts to the environmental values of conservation areas.

The revised application area contains a large portion of vegetation in 'Good' or better condition that includes an occurrence of the Wheatbelt Woodlands TEC, four individuals of and important habitat for *E. resinosa*, contributes to connectivity between adjacent remnant vegetation, and is partly located within the Westonia Common. If left undisturbed the application area will also continue to provide a buffer between the existing mine development and adjacent remnant vegetation, including occurrences of Wheatbelt Woodlands TEC and *E. resinosa* habitat, against edge effects and indirect impacts.

³⁶ DMIRS response to Appeal C016/18, pages 17-18.

It follows that DMIRS was justified in concluding that the proposal to clear 48.8 ha of native vegetation for the expansion of the Edna May mine and related purposes was seriously at variance to clearing principle (c), and was at variance to a number of other principles. Noting the identified values, and in particular the impacts to threatened flora as identified by DBCA, it is considered that the decision to refuse the permit was also justified.

It is open to the proponent to submit a fresh application to clear with DMIRS for the reduced area it provided through the appeal investigation, which will be considered on its merits.

Emma Gaunt
APPEALS CONVENOR

Investigating Officer:
Emma Bramwell, Senior Environmental Officer
Jean-Pierre Clement, Deputy Appeals Convenor