



Environmental Protection Act 1986

**Hon Albert Jacob MLA
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEALS IN OBJECTION TO REQUIREMENTS OF A VEGETATION CONSERVATION NOTICE (CPS 7163/1) AND REFUSAL TO GRANT CLEARING PERMIT (CPS 6992/1) – LOT 150 WELSHPOOL ROAD, WATTLE GROVE

Purpose of this document

This document sets out the Minister's decision on appeals lodged under Part VII of the *Environmental Protection Act 1986* in objection to the requirements of a Vegetation Conservation Notice and refusal to grant CPS 6992/1. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellant:	Mr David Maiorana
Premises:	Lot 150 Welshpool Road, Wattle Grove
Proposal description:	Requirements of Vegetation Conservation Notice (CPS 7163/1) and refusal to grant clearing permit (CPS 6992/1)
Minister's Decision:	The Minister dismissed the appeals
Date of Decision:	16 December 2016

REASONS FOR MINISTER'S DECISION

Pursuant to section 106(1)(b) of the *Environmental Protection Act 1986* (the Act), the Minister obtained reports from DER on the matters raised in the appeals. The Minister was advised that the Office of the Appeals Convenor met with the appellant to discuss the appeals.

After considering the appeals, the Appeals Convenor reported separately in relation to the Vegetation Conservation Notice (VCN) CPS 7163/1 and refusal to grant CPS 6992/1 to the Minister under section 109 of the Act. These reports set out the background and other matters relevant to the appeals.

The Minister understood that that the VCN was issued on the finding of DER that approximately 1.9 hectares of native vegetation was cleared and that a clearing permit had not been granted for the property. The appellant objected to the VCN on the basis that the

works were required following a fire event, to prevent further weed invasion and also that the works were undertaken in accordance with a Fire Break and Fuel Load Notice (Fire Notice) issued by the Shire of Kalamunda (the Shire).

Having regard to the issues raised in the appeals and in the absence of a clearing permit or relevant exemption, the Minister considered that DER had reasonable grounds to suspect that unlawful clearing had taken place on the property and was justified in giving the VCN. The Minister was also of the view that the requirements contained in the VCN were adequate as they reflect the requirements of the Act.

The Minister understood that the appellant considered that DER's decision to refuse to grant the clearing permit was unjustified. The Minister noted that the permit was refused on the basis of advice provided to DER by the Shire that planning approval was required and had not been received. The Minister understood that to date, the application for retrospective planning approval has not yet been determined by the Shire and on this basis the Minister agreed with DER that the permit should not be granted.

Given the above, it follows that the Minister dismissed the appeals.

The Minister noted that the VCN does not preclude lawful clearing, such as clearing that is required to give effect to a Fire Notice. It is also at the discretion of DER to revoke the VCN and the Minister was advised that the Appeals Convenor directed the appellant to DER if they wish to pursue this matter further. The Minister also noted that the clearing permit refusal does not preclude a fresh application to clear being submitted when planning approval is received.

Note: this decision is published pursuant to the terms of section 110 of the *Environmental Protection Act 1986* and regulation 8 of the *Environmental Protection Regulations 1987*.

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