



Environmental Protection Act 1986

**Hon Stephen Dawson MLC
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST REQUIREMENTS OF VEGETATION CONSERVATION NOTICE CPS 6583/1 LOT 32 CANTABILLING ROAD, HILL RIVER

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 103(1)(a) of the *Environmental Protection Act 1986* in objection to the requirements of a Vegetation Conservation Notice. 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:	Corniche (WA) Pty Ltd
Notice Area:	Lot 32 Cantabilling Road, Hill River
Minister's Decision:	The Minister allowed the appeal
Date of Decision:	8 January 2018

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the former Department of Environmental Regulation (DER) on the matters raised in the appeal. The Minister also received a report from the Appeals Convenor. The Appeals Convenor's report sets out the background and other matters relevant to the appeal.

The Minister understood from the appeal that the appellant objected to the decision of DER to issue a vegetation conservation notice (notice), questioning the evidence relied upon to establish a reasonable basis to suspect unlawful clearing had occurred on the land. The appellant also questioned the appropriateness of the requirements applying to the notice.

After an exchange of correspondence with the Office of the Appeals Convenor in respect to the alleged unlawful clearing, the Minister understood that a meeting was convened in October 2017 to discuss the status of the appeal and to better understand the issues in dispute. The Minister was advised that at this meeting, the appellant put forward an alternative option for resolving the issue. This alternative option was for the notice to be modified to focus revegetation activities within an existing area of native vegetation, including a commitment to fence this area to exclude stock and promote natural regeneration.

The Minister understood that part of the motivation for the alternative proposal is to provide the appellant with some certainty that the area to be revegetated is undertaken within a consolidated area so as to minimise interference with agricultural practices.

Noting that the alternative proposal retains the requirements of the existing notice in terms of revegetation and re-establishment of nesting hollows, and includes an additional commitment in respect to fencing, the Minister considered that it is appropriately directed towards promoting the best environmental outcome. The approach is also consistent with section 106(1)(c) of the Act, which encourages resolution of issues in dispute.

In these circumstances, the Minister agreed with the proposed approach to the resolution of this matter and allowed the appeal in accordance with the Appeals Convenor's recommendations.

The Minister requested that the Department of Water and Environmental Regulation (DWER), which assumed the functions of DER on 1 July 2017, give effect to this decision under section 110 of the Act as soon as practicable.

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*.

Office of the Appeals Convenor

Level 22, 221 St Georges Terrace
Perth WA 6000

Tel: (08) 6467 5190

Fax: (08) 6467 5199

www.appealsconvenor.wa.gov.au