



Environmental Protection Act 1986

**Hon Stephen Dawson MLC
Minister for Environment**

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST REFUSAL TO GRANT A CLEARING PERMIT CPS 7107/1: LOT 31 ON PLAN 13707, COWALLA

Purpose of this document

This document sets out the Minister's decision on appeals lodged under section s101A(1)(a) of the *Environmental Protection Act 1986* in objection to the refusal to grant Clearing Permit CPS 7107/1. 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 P Glavocich
Applicant:	Mr P Glavocich
Proposal description:	The clearing of 12.35 hectares (ha) of native vegetation for the purpose of horticulture.
Minister's Decision:	The Minister dismissed the appeal
Date of Decision:	17 May 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 Department of Water and Environmental Regulation (DWER) on the matters raised in the appeal. The Minister was advised that the Appeals Convenor met with the appellant to discuss the appeal and conducted a site visit.

After considering the appeal, the Appeals Convenor reported to the Minister under section 109 of the Act. This report sets out the background and other matters relevant to the appeal.

In summary, the key ground of appeal was that DWER overemphasised the significance of the foraging habitat for the Carnaby's black cockatoo, based on the fauna assessment report assigning a 'moderate foraging value' to the application area and that the surrounding local area contains suitable foraging habitat. Based on the aforementioned the appellant was of the view that the proposed offset of 9.1 ha was adequate. The Minister noted that the appellant was also concerned with DWER's assessment of the proposed clearing against the clearing principles relating to (a) high level of biodiversity, (d) threatened ecological community and (e) significant remnant in an extensively cleared area.

The Minister noted that DWER found the application area comprised of Banksia woodland which provided suitable foraging habitat for the Carnaby's black cockatoo, had evidence of foraging and was located within 12 kilometres of a known nesting site. Based on the foregoing and the *Carnaby's black cockatoo (Calyptorhynchus latirostris) Recovery Plan* (2013), DWER determined the application area comprised significant foraging habitat for the Carnaby's black cockatoo.

The Appeals Convenor sought further advice from the Department of Biodiversity, Conservation and Attractions (DBCA) on the environmental impacts to the Carnaby's black cockatoo. The Minister noted that DBCA confirmed that the application area represents core foraging habitat as it was located in the proximity of known breeding and roosting sites, and near permanent water sources.

The Minister noted that the *WA Environmental Offsets Guidelines* (2014) provides that offsets will be applied to counterbalance significant residual impacts and be designed to achieve long-term outcomes. In this case, DWER advised it had calculated the suitability of the appellant's proposed offset in accordance with the *Commonwealth Offsets assessment guide*, and found that placing a conservation covenant over 9.1 ha was inadequate to counterbalance the significant residual impacts to the Carnaby's black cockatoo.

Based on the foregoing, the Minister considered DWER's determination that the clearing would result in significant residual impacts to the Carnaby's black cockatoo foraging habitat and DWER's calculation of the suitability of the proposed offset was appropriate and in accordance with published policies and procedures.

In relation to the other matters raised on appeal, the Minister considered the Appeals Convenor's advice and the information presented, and was of the view that DWER's assessment of the clearing permit application was appropriate, supported by the available evidence and in accordance with relevant policies, and its decision to refuse to grant a clearing permit was justified.

Therefore, the Minister dismissed the appeal.

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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