



Environmental Protection Act 1986

**Hon Stephen Dawson MLC**  
**Minister for Environment**

## **MINISTER'S APPEAL DETERMINATION**

### **APPEAL AGAINST REQUIREMENTS OF VEGETATION CONSERVATION NOTICE – CPS 8153/1 LOT 236 ON DEPOSITED PLAN 33373, LAKE CLIFTON**

#### **Purpose of this document**

This document sets out the Minister's decision on an appeal lodged under section 103 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](http://www.appealsconvenor.wa.gov.au).

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<b>Appellants:</b>	L de Laat and J Ambrose
<b>Notice issued to:</b>	L de Laat and J Ambrose
<b>Proposal description:</b>	Lot 236 on Deposited Plan 33373, Lake Clifton
<b>Minister's Decision:</b>	The Minister dismissed the appeal
<b>Date of Decision:</b>	24 April 2019

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#### **REASONS FOR MINISTER'S DECISION**

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The Minister noted that the property was burnt out during the 2011 Lake Clifton fire, and that neighbouring properties were also affected.

Following the fire, vegetation regrowth was prolific and the appellants were particularly concerned about a 'prickle bush' which was encroaching firebreaks and existing infrastructure, making it difficult to walk through the property. The Minister understood that the appellants engaged a contractor to clear the vegetation that had regrown following the fire.

On becoming aware of the clearing, DWER inspected the property and confirmed there were at least 11 large piles of cleared vegetation, which included mature banksia and eucalyptus trees.

Following investigation, DWER considered that the clearing was unlawful and issued the appellants with a vegetation conservation notice. The notice required certain actions to be taken within specified timeframes, including a requirement to engage a consultant to inspect the land in September or October 2019, and to advise whether native vegetation has satisfactorily regenerated.

The appellants appealed the requirements of the notice which have been investigated by the Appeals Convenor on the Minister's behalf. During the appeal investigation, representatives of the Office of the Appeals Convenor and DWER met with the appellants at the property to discuss the appellants' concerns.

In response to the appeal, DWER advised that the 'prickle bush' the appellants referred to was native vegetation, and that as the clearing was not of an exempt kind or for an exempt purpose, it was unlawful. The Minister understood the appellants had accepted this finding.

During the site visit, DWER officers clarified that the appellants are only required to undertake revegetation where the natural regeneration is unsuccessful or inadequate. This will be determined by the survey the appellants are required to undertake between September and October 2019.

The Minister encouraged the appellants to liaise directly with DWER in relation to the survey and the results of the survey. The appellants need to advise DWER within three months of the completion of the survey as to the success of natural regeneration of native vegetation. DWER will consider this information, and will advise the appellants whether any further work is required, as set out in the notice.

Should the appellants be able to demonstrate that the objective of the notice has been achieved in the next few years, DWER officers indicated a willingness to consider reviewing the need to continue with the notice.

Taking into account the information before him, the Minister was satisfied that DWER had reasonable grounds to suspect that unlawful clearing had taken place on the land, and was justified in issuing the notice. The Minister was also of the view that the requirements contained in the notice are appropriate to enable the regeneration of native vegetation. It follows that the Minister dismissed the appeal.

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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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