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[admin@appealsconvenor.wa.gov.au](mailto:admin@appealsconvenor.wa.gov.au)

The Appeals Convenor  
Level 22 Forest Centre  
221 St George's Terrace  
PERTH  
WA 6000

The Appeals Convenor,

**Appeal against “Undertaking to grant” advertised in *The West Australian* of 25 January as follows:**

**Merilla Pty. Ltd, Area Permit, Lot 47 on Plan 3217 and Lot 56 on Plan 6941, Welshpool, City of Canning, transport depot expansion, 2.2 ha, (CPS 3376/1).**

The Urban Bushland Council (UBC) lodged a submission (dated 12 July, 2009) with the Native Vegetation Conservation Branch of the Department of Environment and Conservation regarding an *Application to Clear* pertaining to the above site advertised in *The West Australian* of June 29, 2009. In this submission, the UBC made it clear it had very strong objections to the prospect of the proponent being granted permission to clear the land subject to the *Application*. The Council's disposition has not altered and we therefore present this appeal.

At the outset, the UBC would express its concern at the lack of public consultation associated with the government's negotiations to facilitate clearing of the adjacent area of bushland/wetland (Lot 46, 3.88 ha on Tomah Road). The council expressed its alarm at the loss of this native habitat without our having been aware that any formal process had been undertaken in our previous submission and we continue to maintain our strong view that this area's clearing was not justified. It is our understanding that the EPA issued Bulletin 1280 in January 2008 regarding the identification of an “offset” in the Shire of Chittering that would, in the EPA's view, somehow compensate for the loss of the bushland/wetland habitat that existed in Lot 46. The bushland/wetland habitat that existed on Lot 46 has now been destroyed and the UBC regards that as an entirely regrettable outcome.

The Council is strongly opposed to the principle of employing “offsets” except perhaps in the rarest and most extreme circumstances where clearing would appear to be completely unavoidable. They always involve a net loss of habitat, and the habitat “protected” as compensation would be protected already if the environmental protection regime was not a manipulable farce in the first place. Furthermore, the substitution of bestowed protection for permissible destruction in areas that are

geographically distant and ecologically unrelated as far as the plants and animals directly reliant on the condemned site are concerned is an entirely problematic concept.

The Urban Bushland Council had no role in or involvement with or, indeed, any awareness of, the negotiations which resulted in the destruction of the native habitat within Lot 46, adjacent to the site presently under consideration, but whatever offset arrangements were settled between the Government, through agency of the EPA, and the proponent, they would seem by all indications to have applied exclusively to Lot 46 and not to Lots 47 and 56 that are the subject of this appeal. It would appear that for some reason an arbitrary decision has been made by the Department of Environment and Conservation to extend the capacity of the offset actually applying to Lot 46 to also include the offsetting of the destruction of the native habitat in Lots 47 and 56. We regard this as an outlandishly inappropriate application of the concept of offsetting since the formal agreement concluded for Lot 46 *should apply exclusively to that clearly demarcated site* and not to areas a proponent – and/or a government department - may effectively wish to retrospectively include in the offset agreement. Such a nonsensical approach might see a proponent repeatedly attempting to utilise the apparently open-ended value of his offset as leverage for clearing more and more native habitat *with no public involvement in or awareness of the negotiations undertaken*.

The UBC finds the “trading off” of habitat values a hugely problematic concept in itself but if offsetting negotiations are to be undertaken then surely at the conclusion of the negotiations all sides must have reached agreement regarding the specific areas involved – thereby preventing the proponent from seeking to change the terms of the agreement at some future point by claiming the offset should compensate for yet more habitat destruction. The UBC wishes to make it very clear that although we are strongly opposed in principle to the concept of offsetting habitat destruction, if any offset process is to be employed with respect to Lots 47 and 56 then it is not to be undertaken using the same offset that applied for Lot 46. To bundle the remaining area into an earlier agreement applying to a separate portion of land would not only undervalue the remaining habitat but would also bring about the total destruction of the very valuable bushland/wetland that – up until a few years ago - existed as a single 5-6 hectare block.

Having made these points, the Council will now comment on the failure of the clearing proposal to comply with the *Clearing Principles* in Section 510 of the EP Act:

*a) Native Vegetation should not be cleared if it comprises a high level of biodiversity*

In its “Assessment of application against clearing principles” in the Clearing Permit Decision Report it is conceded that the “Proposal is at variance to this principle” (p.2).

The UBC, through its membership, has been aware of the general biodiversity of this site for many years. It is somewhat unusual for a smaller block in that it contains both dry upland and wetland vegetation. It is difficult to say whether the clearing of Lot 46, adjacent to the site in question, has made the existing bushland/wetland more or less ecologically significant in that although a great deal of the native habitat in close proximity has been destroyed, it has rendered it the last remaining patch of what was a very impressive 5-6 hectare block. It becomes a question of whether something is better than nothing and one of how large a habitat remnant has to be to render some ecological service to the local and regional environment. The clearing of numerous remnant bushland/wetland areas that existed in the Welshpool area up until relatively recently is a matter of considerable regret and indeed outrage to members who had some familiarity with the district and it is difficult to escape the conclusion that they were considered relatively easy targets for clearing in a political sense in that their existence in a relatively unpopulated industrial area made them relatively friendless regardless of their ecological value.

It has been a convention, no doubt instituted for convenience, for government departments to attribute only local significance to smaller bushland/wetland remnants having an area no more than a few hectares but the UBC has always refuted this approach and continues to do so. It is argued that they cannot sustain their ecological integrity in the longer term but this overlooks the fact that their small size can make them more amenable to intensive and effective management. It is argued that they have only limited value as habitat for fauna but our members have noted in innumerable instances that they are often the only places that they see some native bird species in the metropolitan area. Despite the amount of clearing and drainage work that has occurred in the vicinity in recent years this block retains some connectivity with such remnant areas as Tomah Road Bushland (Bush Forever Site 282), Black Swamp (in Sheffield Road), Perth Airport (Bush Forever Site 386) and the artificial wetlands created by Main Roads in the vicinity of Roe Highway and Welshpool Road. An open swale drain that ran beside the block on the other side of the railway line has for some of its length been put in underground pipes in recent years - despite the ecological cost of such an undertaking - but there remains something of a connection to other remnant blocks via this drainage reserve. We would point out that bandicoots can survive quite well in the scant remnant vegetation and weeds that grow along these drainage reserves as can some reptile and many native bird species.

The Clearing Permit Decision Report describes the native vegetation on the site in more detail than we are able to and it is apparent that a significant proportion of the site contains vegetation in very good to excellent condition and that it includes Conservation Category Wetland. This, in our view, clearly supports the site's retention under the Clearing Principles. Our members have seen Southern Brown Bandicoots on the site and a variety of native birds that generally do not venture into suburban gardens – species such as Rufous Whistlers, Western Warblers, and Yellow-rumped Thornbills. Long-necked tortoises live in the nearby Black Swamp and in the adjacent drain, and it is possible that some tortoises lay their eggs in or near the bushland in question. Frogs from nearby drains and wetlands, such as Black Swamp, probably also utilise the bushland for feeding. The fact that the site retains both wetland and some upland vegetation increases its ecological value and it is our view that the smallest of remnants may provide habitat for native invertebrates that are simply not adapted to built-up urban landscapes. The Department of Conservation and Environment cannot say what native invertebrate species occur on the site and cannot therefore say that none of them are endangered or rare. The UBC is in no doubt that this site supports a high level of biological diversity and this is at variance to the clearing principle: *Native vegetation should not be cleared if it comprises a high level of biodiversity.* No offset will replace the ecological function of this block in its current location and that is where its significance lies.

*b) Native Vegetation should not be cleared if it comprises the whole or part of, or is necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia.*

The UBC has known this area to be occupied by the Southern Brown Bandicoot for many years. It can survive in the degraded remnant vegetation and weeds in the adjacent railway and drainage reserves but is probably best able to shelter and feed in the bushland and wetland environment provided by the subject remnant. This species can hold on in small isolated remnants for many years, even with foxes present, from our observation of this and other blocks in the area and the opportunity for connectivity provided by the nearby railway and drainage reserves even makes wider genetic exchange possible. This block will help to sustain the population of bandicoots that has managed to survive thus far in the area and its location beside facilities such as the railway line that functions as opportunistic habitat corridor increases the prospects of this survival persisting and helping to increase genetic diversity within the species. The railway reserve and the drainage

reserve have potential to be enhanced as wildlife corridors in the future through appropriate planting and protection of native plant species.

The UBC can say with certainty that virtually every small block of remnant vegetation containing Banksias in the wider Canning/Belmont Council districts will be visited by Carnaby's Cockatoo in the autumn and winter months. It is a pattern that can be observed year after year and it points to the species probably not having sufficient feeding habitat in the metropolitan area. The birds are especially attracted to the Banksia trees which they will feed in for hours if left undisturbed. In the nearby Belmont district the Red-Tailed Black Cockatoo has begun to appear in the suburbs in late summer – apparently most attracted by the prospect of feeding on Cape Lilac fruits. However, the species also visits bushland remnants and has been observed feeding on the seeds of such species as *Allocasuarina fraseriana* and *Eucalyptus todtiana*. Both of these cockatoo species are under some threat and it is our view that *they need all the habitat remnants they can get* – whether they are large or small. We would make the same point with respect to many other smaller native bush birds. It has been our observation that even small reserves, if they contain some suitable nesting sites, can serve as productive breeding areas for species that seldom seem to nest in suburban gardens. Four or five different species can be nesting in one large tree at the same time if it has hollows and at least some dense foliage. The significance of such sites as temporary stop-over habitats for nomadic or semi-migratory bird species cannot be overestimated as many of the larger Bush Forever sites on the Swan Coastal Plain are becoming increasingly isolated and inaccessible for the many species of native birds that generally avoid built-up areas. Our members observe such species as the Western Thornbill and the Tawny Crowned Honeyeater in small and apparently isolated remnants when the *Banksia menziesii* trees begin to bloom but not at other times of the year and it is clear the birds are moving across the metropolitan area using small pockets of bushland as “stepping stones” between more substantial remnants. The loss of these small blocks may see the loss of such species to all but the largest remnants on the Swan Coastal Plain – if they can even survive in those.

Our members have seen the distinctive “tracks” of snakes in sandy areas around the site but do not know what species are involved. The Western Heath Dragon definitely has been seen in the area and the site probably supports such lizards as Bobtail skinks, Lined skinks, and Burton's Snake lizard, among other species.

It is our view that the clearing of this site would indeed be at variance with the principle 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.*

*e) Native vegetation should not be cleared if it significant as a remnant of native vegetation in an area that has been extensively cleared.*

The Clearing Permit Decision Report states that the “proposal may be at variance to this principle” (p.5). This underestimation borders on the ludicrous. Very extensive clearing has occurred in the Welshpool area even since the advent of significantly increased community agitation for the protection of urban bushland in the early 1990's. Our members can recall a very large swathe of bushland (hundreds of hectares) lying on either side of what is now Roe Highway that has been replaced by the highway itself, various roads and industrial estates, and freight terminal development. This area was very rich as a fauna habitat, having a resident population of Black-Gloved Wallabies, a substantial and widespread population of the Southern Brown Bandicoot, numerous reptile species, including dugites over two metres in length, and a great many native bird species. There were very extensive areas of ti-tree heath and upland areas of Banksia woodland with the transitional areas intact as well. In our view, supported by expert - though informal - botanical

advice, is that an exceptional wetland remnant within the Kewdale Freight Terminal property was very likely to have been a Threatened Ecological Community. Overall, it was a magnificent natural area and apart from the Tomah Road bushland reserve (Bush Forever Site 282) all that remains is the site presently under consideration. It is a disgraceful legacy and how this area could have been so completely obliterated is difficult to comprehend. Anybody disputing the extent of the clearing operations can examine the publicly available aerial photographic images of Perth over this period.

The Clearing Permit Decision Report sets out the percentages remaining and in secure tenure with respect to the vegetation complexes and associations found on the site both on the Swan Coastal Plain and in the City of Canning and it is clear that within the City of Canning there is nothing in secure tenure and that on the Coastal Plain as a whole the amount in secure tenure is low. Our very strong view is that appropriate planning would not have allowed such a large area of remnant bushland to have been destroyed in this region over the past two decades and that the ecological desertification of entire districts, as has occurred in this area over this period, reflects an unbelievably crude approach to urban planning as a whole. It is not surprising that one of the last remaining tracts of bushland in the area is now under threat but the UBC strongly objects to developers benefiting from this legacy of destruction through claims that the remaining block is small and isolated. It is also exceedingly rare in that it is one tiny portion of what existed only two decades ago.

Another exceedingly disappointing aspect of the extensive clearing that has occurred in the Welshpool area over the past two decades is that there were many aboriginal artefact scatters within and on the fringes of many of the remnant blocks. Indigenous heritage is not the UBC's area of expertise but why some of these bush blocks containing sands loaded with such artefacts as chert flakes, quartz cores and flakes, grindstones, and ochre fragments were not protected for their Aboriginal cultural heritage value alone is a very poor reflection on Western Australian planning processes. It has been our observation that what applies on paper in this area has little to do with what applies in practice. Our members have definitely seen artefacts in the sands that fringed the larger 5-6 hectare block but as there has been so much disturbance and filling in recent years it would probably be difficult to find such objects at present.

*f) Native Vegetation should not be cleared if it is growing in, or in association with, and environment associated with a watercourse or wetland*

It is conceded in the Clearing Permit Decision Report that part of the subject site lies within a Conservation Category Wetland and that the entirety of the site could be described as wetland under one or other of the various descriptive categories the Department of Environment and Conservation employs. As a consequence the Report can only admit that the "proposal is at variance to this principle" (p.6). The UBC takes the strong view that this is yet another reason for retaining the site. Wetlands of the type found on the site are exceedingly poorly conserved and we are at a loss to understand why permission was ever granted to clear Lot 46. Chittering has nothing to do with Welshpool and no new wetland is magically appearing in Chittering - so where is the environmental benefit?

*h) Native vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area*

The Clearing Permit Decision Report claims the "proposal is not likely to be at variance to this principle" (p.7). The UBC is of the strong view that bushland remnants in the Perth metropolitan

area should be seen as interdependent and ideally they should be linked through some form of ecological corridor whether it is constituted by such unsatisfactory means as a road reserve or by such favourable means as a vegetated creek line, for example. We have made the point elsewhere in this submission that smaller remnants provide valuable “stepping stones” for avian fauna moving between larger habitat areas but in the case of the block subject to this Appeal there is a railway reserve and a drainage reserve adjacent to the site which could be developed as greenway or ecological corridor that could provide a link to other remnants including Bush Forever sites in the region and beyond. Terrestrial fauna could use this greenway and the problem of genetic isolation and localised extinctions due to such factors as fire or predation could be obviated. This is an important concept that has been very poorly explored and barely tried in the Perth Metropolitan Region and its widespread implementation is well overdue. Black Swamp, a closed paperbark wetland only a hundred or so metres from the site, and the Tomah Road Bushland, and Perth Airport Bushland and Dundas Road Bushland could all benefit if something was done to link the sites using railway and/or drainage reserves. Even a small remnant such as the one subject to this Appeal would enhance the value of a relatively narrow corridor substantially by providing some more naturally suited feeding or breeding habitat. We would add that UBC members used a number of the remnant blocks around Welshpool to collect seeds for bush regeneration activities and that this resource has virtually disappeared. How can ecological corridors be created, or degraded sites rehabilitated or regenerated using local provenance seed if there is nowhere to harvest such seed?

It is our view that the proposal is at variance to the principle that *Native Vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area.*

*In summary, we submit that the proposal is at variance with five of the Clearing Principles.*

In conclusion, the Urban Bushland Council deplures the previously undertaken clearing of Lot 46 and objects in principle to the employment of offsets to facilitate clearing works. It is our understanding that a specific area of land in Chittering was identified to compensate, in the opinion of the EPA, for the loss of Lot 46 and Lot 46 alone. We would object to the clearing of the land subject to this Appeal regardless of any proposed offset but we certainly object to any notion that the loss of the native habitat on Lots 47 and 56 has already been offset by that offset which we understand pertained only to Lot 46. We have set out our views on why we see the proposal as being at significant variance to a number of vital principles within the Clearing Principles laid down in Section 510 of the Environmental Protection Act and we remain steadfast in our opposition to the subject area being cleared.

Yours faithfully

C Mary Gray  
President  
Urban Bushland Council WA Inc