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Native Vegetation Conservation Branch

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**Application for clearing PMR Quarries Pty Ltd Lot 1 Nowergup Road Nowergup.
CPS 4310/1**

Summary

The Urban Bushland Council WA strongly recommends that this application for a clearing permit be refused. The proposal is at variance with clearing principles a, b, c, d, e, f, g, h and i - a total of nine principles.

We are concerned that the proponent has significantly understated the values of the site and that a proper winter- spring flora survey and follow up visits have not been conducted according to EPA requirements for a level 2 survey. We recommend that this work be carried out.

Where the bushland is situated (Lot1) is important as the aspect from the top of Wanneroo Road down the valley to Lake Nowergup is all part of the cultural, social and environmental value of the area. Lake Nowergup is only 400 metres from the site, the site is adjacent to Neerabup National Park and Bush Forever site 383, and is within 300 metres of the Yaberoo Budjara Heritage Trail.

Introduction and 'Other relevant matters'

1. **Position of the City of Wanneroo:** The City of Wanneroo was opposed to and refused the application for a limestone extraction and concrete batching plant at the site for about two years. It was only after the case was referred to the State Administrative Tribunal (SAT) that the City approved the application with conditions. The City of Wanneroo councillors believed that if they did not approve the proposal then they would have no say in putting conditions on the proposal. However this is not the fundamental issue on which their decision should have been made.

2. **'Not assessed' effectively means approved:** The City also believed that the EPA, by stating 'not assessed-managed under part V,' had approved the proposal. The Lord Mayor stated "the Department of Environment and Conservation had approved the proposal." This however is not the case as the EPA did not formally assess the proposal. But this assumption of approval is a major problem in the decision making processes as it leaves no rigorous legal process to protect the environment according to the objectives of the Environmental Protection Act. Effectively there is a loophole exploited by proponents where there are significant environmental factors and significant impacts which are being bypassed and ignored. This scenario presents time and time again and the Urban Bushland Council brings this matter to your attention as a matter of public interest which needs corrective action by Government.

3. Inadequate information: Neither the EPA, the local government, the WAPC nor the State Administrative Tribunal have assessed the environmental impacts if the proposal were to proceed. It is neither satisfactory nor good governance to rely on the proponent's deficient and biased 'Limestone Excavation and Rehabilitation Management Plan' for adequate information to assess the impact of clearing according to the clearing principles. Some of the language used in the plan is misleading: eg the 'Endangered Community Type 26a may occur'. This Community Type actually does occur on site as detailed in the Vegetation and Flora Assessment by Landform Research, appended to the submission.

4. Political interference: The UBC takes exception to the comments of the Premier about this matter. The Premier said on ABC radio, 17 November, 2010, that 'the issue is one of aesthetics for local residents and not an environmental issue.' This is incorrect and his comments should play no part in the regulatory decision-making by DEC according to the clearing principles and the objectives of the Environmental Protection Act.

5. Matter of considerable public interest: The proposal for a limestone quarry and concrete batching plant is vehemently opposed by the local and by the wider community as well as by every political party except the Liberal Party.

6. 'Additional principles' claimed by proponent are rejected

The proponent claims that the clearing principles

'are apparently designed for rural regions and do not address the issues of the metropolitan area or resource needs' and therefore 'some additional principles need to be added when considering the need for Basic Raw Materials, in an attempt to provide a better balance.'
(Limestone Excavation and Rehabilitation Management Plan p25)

The proponent attempts to gain support for this approach by emotive statements in the Vegetation and Flora Assessment p.21:

"The reality is that the limestone is needed by the community and that is the only reason it has been excavated. Therefore an examination of the significance of the flora and its value cannot be divorced from a consideration of the community need for limestone."

This is nonsense and seriously undermines the credibility of the Flora and Vegetation Assessment.

Whilst the Director General DEC may take into account other matters, the suggestion by the proponent that such other matters ought to count as clearing principles is totally unacceptable. The need for basic raw materials is not a relevant environmental factor in consideration of environmental matters and impacts. Thus this claim should be rejected as irrelevant. The Guide to the assessment of applications to clear native vegetation quite clearly states that other matters are generally environmental matters within the objects and principles of the Act.

We therefore strongly recommend that the Director General of DEC requires the proponent to correct this part of the Plan and rename the items it calls "Additional Clearing Principles – Extractive Industry" as Other Relevant Matters.

COMMENTS AGAINST THE CLEARING PRINCIPLES

Principle (a) Native vegetation should not be cleared if it comprises a high level of biological diversity.

There are significant deficiencies in the flora and vegetation information. The Vegetation and Flora Assessment does not comply with the Guidance for the Assessment of Environmental Factors:

Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment in Western Australia, No 51.

- Lindsay Stephens, who conducted the vegetation and flora surveys is qualified as a Geologist and Geomorphologist and is not a Botanist experienced in survey of the Swan Coastal Plain.
- The flora survey was not conducted in the main flowering season winter- spring and many flowering species would have been missed. Also more orchid species, some likely to be rare or significant, are likely to be present and would have been missed in the November survey. **A spring survey with follow up visits as defined for a level 2 survey should be carried out by suitably experienced botanists.**
- Sampling was inadequate according to Guidance 51, especially knowing the complexity and regional significance of the surrounding nature reserve and Bush Forever site. It should have been a Level 2 survey

The vegetation on the site is highly diverse. Its position in the landscape surrounded by regionally significant areas makes it obvious that being in good to excellent condition it will be regionally significant. The intact nature of the vegetation is obvious from the air photo images.

Four community types have been identified:

- Limestone Closed Shrubland
- Melaleuca shrubland; listed as endangered and 'excluded from the area proposed for excavation' (*Landform Research*)
- Banksia Woodland - but Floristic Community Types are not identified
- Tuart Woodland

Landform Research states that the vegetation is in very good to excellent condition (page 19) with some degraded areas in the north-east corner in the tuart communities. Because of the above deficiencies in survey the data presented seriously understates the biodiversity values of the site.

At the Urban Bushland Council's recent symposium *Perth's Banksia woodlands*, Greg Keighery told the audience that Banksias in WA are a very ancient genus; at least 50 million years old. By 1987, 70% of our Banksia Woodlands had gone to development. He also impressed on the audience how wonderful the Tuart trees are, growing to great heights from soil with almost no nutrients.

Ron Johnstone, T Kirkby and K. Sarti, WA Museum, stated in the UBC's symposium on Black Cockatoos that on the Swan Coastal Plain about 90% of the original vegetation has been replaced. (*Endangered Black Cockatoos in Western Australia; proceedings of a symposium about their biology, status, threats and efforts to restore their habitat and populations*)

Scientists have given us information about our native vegetation and the fact that our bushlands are being stressed from climate change as well as from all the other stresses including inappropriate clearing.

The proposal by the proponent for vegetation rehabilitation will in no way approach what will have been destroyed as the complex vegetation ecosystems cannot be replaced. Thus promises of rehabilitation and restoration of mined areas do not compensate or offset the proposed clearing and there would be a significant net loss of biodiversity values.

In summary we submit that the clearing and mining proposal is seriously at variance with principle (a)

Principle (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 appreciates that this principle is designed to protect our unique fauna and the fact that it does not limit consideration to only threatened species. Because of the extensive clearing which has occurred, now every area of bushland left is important to protect our biodiverse fauna.

Dr Ric How, Senior Curator Biogeography and Mammalogy at the WA Museum has explained in a '2010 Year of Biodiversity' WA Museum lecture that in ten years from 1986 to 1996 due to development we have lost:

72% of our native vegetation

27% of frogs

44% of birds

73% of mammals and

33% of reptiles.

Principally because of habitat clearing and fragmentation our three species of black-cockatoo are now endangered and numbers of Carnaby's Cockatoo continue to decline. Dr Andrew Weavers, previous Director, WA and SA Section, Approvals and Wildlife Division, Federal Department of Water, Environment, Water, Heritage and the Arts said at a planning and conservation seminar in 2010 that the top priority for development applications in regard to black cockatoos is to not clear. He said that the objective of the DEWHA is to support the persistence and recovery of black cockatoos but he was not confident that what we are doing will achieve that. Other points he made were;

- It takes 15 years for foraging habitat to grow back
- Nesting trees are one hundred years plus old (they are at least 230yo according to Ron Johnstone WA Museum)
- Natural hollow-bearing trees are so important
- A nesting box is not a replacement for a living tree
- Rehabilitated Banksia will not have the same value to black cockatoos as natural Banksia Woodlands
- Our assumption is that there is insufficient foraging area left

With the staged removal of the Wanneroo pines, retention of the remaining native foraging habitat is of even more importance. The recently completed mapping by DEC has seen all Banksia Woodland, Tuart and Jarrah Woodland vegetation mapped as black cockatoo foraging areas and thus is habitat to be protected.

This proposal has been referred to the Federal Government with the notice put up on 11 May 2011. In the *Fauna Assessment: Nowergup Road*, the fauna listed as either likely to be, or may be on the site are Carnaby's Cockatoo, Rainbow Bee-eater, Peregrine Falcon, Graceful Sun-moth, Austrosaga spinifer (Cricket), Hylaeus globuliferus (Native Bee) Brush Wallaby, Carpet Python, Quenda.

Whether stygofauna and troglofauna exist within the limestone below has not been established. This should be investigated by suitably qualified and experienced survey specialists before any decisions are made.

Species not listed by the state and federal governments are not included in the report but there would be tens of thousands of species of invertebrates and many species of birds and reptiles in the bushland.

In summary the proposal is seriously at variance with principle (b)

4. Principle (c) - Native vegetation should not be cleared if it includes, or is necessary for the continued existence of rare flora.

The Rare plant *Eremophila glabra* subspecies *chlorella* may be present on the site and the listed Rare flora, *Conostylis setigera* is present. Significant flora are *Lechenaultia linarioides*, *Petrophile serruriae* subspecies (GJK 11421) and *Eucalyptus foecunda*.

Given the deficiencies in the flora survey, it is likely that more rare and significant flora may be present including orchids.

The proposal is at variance with principle (c) and a clearing permit should therefore be refused.

5. Principle (d) Native vegetation should not be cleared if it comprises the whole of a part of, or is necessary for the maintenance of a threatened ecological community.

TEC Type 26a *Melaleuca huegelii* – *Melaleuca systena* shrublands on limestone ridges exists on the site and although the proponent states that this community will be excluded from the excavation area, the UBC cannot see how it will not be impacted upon. The buffer is only 20 metres wide; quite inadequate for the threats imposed on the community. Weed infestation, the possibility of the introduction of phytophthora and also dust from quarrying and the transportation of material by trucks are some of the threats.

Further a proper vegetation survey may reveal presence of other TEC. Given the serious decline of Tuart communities on the Swan Coastal Plain, the Tuart community in this area should be assessed in the regional context and may be considered threatened. The extent of Tuart on the site is understated by the proponent.

Therefore the proposal compromises TEC 26a and is at variance with principle (d).

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

The UBC recommends that the extent of the Cottesloe Complex, Central and South remaining is checked with current mapping. Up to date mapping by the WALGA is soon to be launched but it is not yet published. This mapping will show the extent of vegetation communities remaining since settlement. We would suggest that the extent of the complex would have dropped below 30%, a figure below which species loss accelerates.

Principle (f) Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland.

As stated previously Lake Nowergup lies 400 metres away from the site. A quarry will obviously have an impact on groundwater relations which will affect nearby wetlands. Lake Nowergup has very high values as one of only two relatively deep freshwater wetlands on the Swan Coastal Plain, the other being Lake Richmond. Application of the precautionary principle dictates that such an impact should be avoided.

We believe therefore that the proposal is at variance with principle (f).

Principle (g) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation.

In a site so close to Lake Nowergup, to Lake Nowergup Fauna Sanctuary, to Neerabup National Park and to Bush Forever site 383, and considering that the proposal is for quarrying and for a cement batching plant, it is obvious that the proposal will cause appreciable land degradation to those adjoining sites. The very activities proposed will result in limestone, sand and topsoil dust. The site itself will be totally destroyed, there will be a huge hole in the natural landscape and revegetation will not in any way compensate for loss of the original vegetation. This constitutes total land degradation.

Therefore the proposal is at variance with principle (g).

Principle (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 values of those areas.

As stated under Principle (g), the site is adjacent to Neerabup National Park, Lake Nowergup, Lake Nowergup Fauna Sanctuary and to Bush Forever sit 383. Lake Nowergup supports resident and migratory birds. The UBC believes that clearing of the site will have a significant impact on the environmental and conservation values of these significant areas. Further it is not just the clearing that will have an impact, it is also the quarrying and impacts of the batching plant. Perturbations of groundwater affecting the deep rooted neighbouring vegetation in the national park and nature reserve is inevitable. Also dust impacts on insects, pollinators and flowering is also inevitable in the neighbouring bushland. These potential impacts should be matters of considerable concern to the land manager of the national park and nature reserve - DEC.

Therefore the proposal is seriously at variance with principle (h).

Principle (i) Native vegetation should not be cleared if the clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water.

It has not been established that mining and excavation will not impinge on the water table. We urge that the precautionary principle be applied in that it must be assumed that contamination of fresh groundwater is highly likely to occur. Lake Nowergup is a relatively deep freshwater lake with good water quality and nearby disturbance to groundwater relations by complete removal of part of the natural landscape will certainly change groundwater dynamics.

CONCLUSION

- **The EPA, by not assessing this proposal, has left the environmental assessment only of the effects of clearing to the Department of the Environment and Conservation.**
- **The proposed clearing is at variance with nine clearing principles and therefore a clearing permit should not be granted and should be refused.**
- **This proposal is of very considerable public interest and is not supported by the local**

community.

- **The Urban Bushland Council strongly recommends that this area be conserved in its entirety and be added to the adjoining Bush Forever site and the National Park.**

C Mary Gray
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Urban Bushland Council WA