



14 March 2010

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The Appeals Convenor
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The Appeals Convenor

Supplement to an Appeal against Conditions lodged by the Urban Bushland Council dated 9 March, 2010 relating to the following project advertised in *The West Australian* of 15 February, 2010:

“Bronzewing Investments Pty Ltd, Area Permit, Lot 97 on Plan 43176, Hazelmere, City of Swan, National Lifestyle Village construction, 5.6 ha, Mar 10-Mar 14, (CPS 3237/1)

The Urban Bushland Council lodged an Appeal, dated 9 March 2010, against the Clearing Permit Granted for the above project, which included an Appeal against the Conditions associated with the Clearing Permit, but has subsequently been advised by the office of the Appeals Convenor that the submissions period for lodging an Appeal against the Granting of the Permit had expired before the Appeal was received. We have also been advised, however, that the submission period for Appeals against the Conditions associated with the Clearing Permit does not expire until 17 March, 2010.

The UBC is not satisfied with the confusing manner in which submission periods for Clearing Permits Granted are made known through the advertisements published in *The West Australian* and insists that clear and specific closing dates for submissions should be published in association with each Application for a Permit to Clear and associated matters and each Clearing Permit Granted and associated matters. One of our representatives contacted the Native Vegetation Conservation Branch of DEC by phone on February 16 to ask for a hard copy of the details of the project advertised as above and to inquire whether the “Mar 10-Mar 14” in the advertisement cited above referred to the closing dates (as in March 10th and March 14th) for the submissions period for lodging an Appeal against the Clearing Permit and against the Conditions respectively and was told by an officer that she did not know but would find out and clarify the matter. We received the copy of the Clearing Permit but no clarification of the submissions period. We maintain it was reasonable to assume the “Mar 10-Mar 14” referred to the expiry of submissions periods – particularly since an officer of the Native Vegetation Conservation Branch had no alternative explanation upon our making the inquiry. Perhaps even more puzzling is the advice that the submissions period for Appeals against the Conditions closes on the 17 March when any reading of the small text at the foot of the block of advertisements published on February 15, which we have been advised is authoritative in relation to the rejection of our Appeal against the Clearing Permit, indicates that submissions for Appeals against Conditions should be made within 28 days of 11 February – that is, by 11 March. Adding to the confusion is the fact that the date of the advertisement - almost always the commencement of a submissions period for public comment processes – is not the date from whence the submissions period is measured. The UBC wants these public comment processes

- and the advertisements informing the public of their opportunities so available – to be simplified and made a good deal more straightforward. Furthermore, 21 days is not a sufficient length of time for a comment period, particularly when the commencement of this period may precede the publication of the fact that such a process is actually being undertaken.

In relation to the Conditions pertaining to the Clearing Permit associated with the project cited at the commencement of this submission - Bonzewing Investments Pty Ltd, Area Permit, Lot 97 on Plan 43176, Hazelmere, City of Swan, National Lifestyle Village construction , 5.6 ha, Mar 10-Mar 14, (CPS 3237/1) – the UBC is of the very strong view that the proponent should have to retain the majority of native trees on the site – particularly those which form areas of relatively closed canopy and, furthermore, the proponent should be required to retain all but the most completely degraded native vegetation on the site – particularly those areas containing the Rare and Endangered species *Conospermum undulatum*. This would be in addition to the environmental protection and conservation requirements laid down in the Conditions in the Clearing Permit in its current form.

Our original submission - to which this is a supplement - makes it clear why the UBC insists on the retention of as many of the native trees and as much of the native vegetation as possible on the site under application and cannot see why the proponent should be given carte blanche to clear so much native habitat – particularly since it is demonstrably habitat within which a Rare and Endangered flora species is found, and it is on the eastern side of the Swan Coastal Plain where there is supposed to be a presumption against clearing. The proponent should have to retain trees and native vegetation on the site – and we mean *inside* the area under application - such that the area can retain some of its current ecological values and services. The proponent should be required to undertake bush regeneration works that improve the quality of the disturbed natural areas that we believe the Conditions should require them to retain. Retaining native vegetation may be inconvenient for developers and builders but it is not impossible.

The UBC objects, in principle, to the concept of using environmental offsets. However, in this peculiar instance, as we are now ineligible to Appeal against the Granting of the Clearing Permit as such, we would insist that if the proponent raises objections to retaining most of the naturally occurring trees and vegetation on the 5.6 ha site due to “insurmountable problems” that preclude the retention of the bulk of the trees and native vegetation lying within the area under application then the proponent should be required to purchase an area having similar ecological values to the site in question for the purposes of securing its conservation in perpetuity.

The condition of requiring the retention of a small part of the site is not an adequate offset for clearing most of the site, nor does it justify the failure to uphold the clearing principles and the failure to uphold the government's policy of a presumption against clearing on the eastern side of the Swan Coastal Plain as specified in Bush Forever Vol 1:xiv.

The UBC deplores the continuing loss of remnant native trees and vegetation on the eastern side of the Swan Coastal Plain and particularly objects to the taking of Rare and Endangered species and the destruction of habitat that supports them. If Clearing Permits of the kind referred to in this submission are going to be granted then they must include stringent Conditions that optimise environmental outcomes for the community. This cannot be said of the Conditions laid out in the Clearing Permit and the Council hopes the ideas set out in this submission will be given due consideration.

Yours faithfully
Mary Gray
President
Urban Bushland Council WA Inc