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

Appeals Convenor, Office of the Minister for Environment  
Level 22 Forrest Centre  
221 St Georges Terrace  
PERTH WA 6000

**Dear Appeals Convenor**

**Appeal against granting of Clearing Permit 8947/1 Ocean Reef Marina coastal vegetation**

This is the third clearing permit granted for the Ocean Reef Marina project. The first two clearing permits of over 8 ha are already in progress. Although good argument was put forward opposing these permits, the clearing was granted because of:

- an offset agreement, Negotiated Planning Outcome (NPO)
- approval of the housing development as part of the Ocean Reef Marina (ORM) is that it had been a planned project for many years
- the Government now sees this as a Post Covid Job Stimulus project.

**The Urban Bushland Council WA Inc. hereby appeals the decision to grant clearing permit 8947/1 coastal vegetation at Ocean Reef. The clearing is at variance to principles (a), (b), (e), (g), (h) and may be at variance to (c) and (f) and therefore should not be approved. That this permit is one of a series of permits whereby the cumulative impacts are not being assessed or considered is a major concern.**

Our Grounds of appeal are:

**GROUND 1**

**Concern:**

- Under the Clearing Regulations, native vegetation should not be cleared if it is at variance to one or more Clearing Principles. Being at variance to at least 5, if not 7 Clearing Principles, is very strong reason for continued existence and protection of the native vegetation.

**Outcome Sought:**

The Clearing Permit be refused.

**GROUND2**

**Concern:**

**Proponents have failed to show how they have followed the Local Government Act 1995 3.58 for a Land Transaction:**

- Section 3.59 4a. There is no evidence that State wide notice was given by the City of Joondalup when entering into a major land transaction, or that a business case was published on its website. Instead, the community consultation was always at the development stage.
- Section 3.59 6. There is no evidence that state wide notice was given when the local government significantly changed the proposal from a marina to a housing estate.

**Community Consultation:** We have a climate and species extinction emergency. The community expects government decisions to be directed by this reality.

- This Ocean Reef development is not what the community wants according to the 2018 Community Coastal Values survey.
- The value of nature conservation to public health has never before been so prominent in the thinking of our Western Australian community.

**The lengthy planning process has been flawed and lacking in transparency.**

- Government has advanced **the proposal** for a marina based development on a deceiving survey from 2009. The survey asked: *“Do you feel that a marina SHOULD be developed at the present Ocean Reef Boat Harbour site?”*. **Built to the highest environmental standards.** It did not indicate the class A Marine Reserve and Bush Forever Area would be destroyed and that there would be a coastal land based expansion to a 1000+ residential estate.

**Business Case:**

- There is still no proponent business case to support the 550 boat pens to be built at Ocean Reef. In fact using the Department of Transport boating figures (2017) for the northern suburbs corridor, boat length and pen requirements, there will be **an oversupply of 1000+ boat pens** between Hillary’s Marina, Mindarie Marina, and Two Rocks if an additional 550 boat pens at Ocean Reef Marina are built. (Analysis available). There is also a proposal to build 220 boat pens at Eglington.

**Outcome Sought:**

The Clearing Permit be refused because of the above reasons.

**GROUND 3**

**Concern:**

**Mandatory Plans required before a clearing permit can be issued are outstanding:**

1. The **Wrack Management and Coastal Processes Plan** as required by the Minister should be produced and published for community consultation.
2. **The proposed Negotiated Planning Outcome (NPO) was not finalised or published for public comment.** The NPO, which is for acquisition of a Banksia Woodland site at Carabooda is not acceptable, as it is not like for like, and will still result in a net loss of biodiversity, this being **the opposite to what the EPA’s objectives are:** “to maintain representation, diversity, viability and ecological function at the species, population and community level.”
3. **Construction Environmental Management Plan (CEMP):** The draft NPO stipulated conditions for clearing to minimise fauna deaths, stop the spread of weeds and dieback. However the Ministerial conditions for the previous two permits only made it a requirement **3 months after the clearing process**. Still the CEMP for the first two Clearing Permits 8788/1 and 8787/1 have not been received by DWER. **Therefore we submit that the clearing to date has been non-compliant with Ministerial conditions and which have not been enforced.** This is a failure in process of governance.

4. **The Construction Management Plan for the first two clearing permits which includes a dilapidation plan, noise and dust plan, GPS co-ordinates, Clearing direction and speed has not been received. Thus the clearing to date is premature and should not have been permitted.**

The Construction Environmental Management Plan for this Permit CPS 8947/1 should have included tabling:

- how to avoid fauna deaths in the clearing process
  - how to avoid over clearing
  - GPS co-ordinates for clearing
  - process to be used to minimise weed and dieback spread.
5. The Dilapidation Report for Beenyup Wastewater Outfall with pipes up to 43years old.
6. Marina Construction Monitoring and Management Plan.
7. Marine Operations Management Plan.
8. Marine Environmental Quality Management and Monitoring Plan.  
The EPA has not used the precautionary principle but rather has asked for a monitoring plan. Monitoring alone will not prevent significant environmental impacts.
9. Ocean Reef Boat Harbour: – Water quality data – WA Public health information.
10. Details of modifications to the principal shared paths and footpaths connections shall be submitted to and approved by the City prior to commencement of development.
11. Revegetation and Rehabilitation plan. Conditions set by DWER for a plan have no detail and show no understanding of the area. Of concern is that local bushcare groups and the City of Joondalup natural areas officers **have not been consulted**. Conditions are a hasty desktop plan of little relevant substance.

**Outcome Sought:**

The Clearing Permit be refused.

**GROUND 4.**

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

**Concern:**

**Because the Ocean Reef Bush Forever site is a large intact coastal remnant of 10km of contiguous ecological linkage to Burns Beach, it supports a biodiversity of fauna and flora that have been locally lost to the over cleared City of Joondalup and greater Perth Metropolitan Region.**

- The DWER assessment agreed. However, the variance was determined to be ‘mitigated’ by the NPO of existing Tuart Woodland at Carabooda. This was endorsed as being suitable by DPLH, DBCA and the EPA ([Strategen-JBS&G, 2020a](#)). This is not a ‘like for like’ offset and the result will be a net loss of the coastal diversity and significant ecological link age values, and is **the opposite to what the EPA’s objectives are: “to maintain representation, diversity, viability and ecological function at the species, population and community level”**.
- **Further**, the NPO is **assumed** to also have a high level of fauna diversity, and along with the rehabilitation of adjacent degraded areas, it was determined to be enough to mitigate the impacts on fauna diversity. This is not a logical or acceptable offset, as there will be a net loss of bushland, of diversity and of ecological function.

The difference in vegetation types and soil types at each site supports a vastly different fauna. The coastal Bush Forever 325, of which Ocean Marina is a part, has 538 species of macro-invertebrates and 14 species of reptiles as surveyed by entomologist David Knowles and volunteers. **This is an extremely high level of biological diversity which is reason alone for this are to be conserved and maintained.** How similar are these to those in the Carabooda offset?

- The inferred presence of two ecological communities with higher conservation status at the offset site, namely Tuart Woodlands CE TEC and Banksia Woodlands of the Swan Coastal Plain endangered TEC, was determined to be of higher conservation outcome, despite two of the three Priority Ecological Communities to be cleared not being represented. This is flawed logic. The Carabooda sites already exist, so the offset is not a net gain.

We submit that the higher conservation value vegetation complexes at the NPO cannot justify clearing priority vegetation complexes at Ocean Reef which support different fauna from the NPO site. **The NPO offset is not 'like for like', and there will be an irreversible net loss of the diverse Ocean Reef vegetation and associated fauna and its ecological function.**

- Quandong are difficult to grow and are slow growing, and they have a low genetic diversity. Clearing could have a significant impact reducing this population. How many Quandong are found at the Carabooda NPO site?

### **Outcome Sought**

- The Clearing Permit for clearing of this near coastal vegetation be refused.
- The Revegetation and Rehabilitation Plan of the 4.84 ha is made available to the public prior to any clearing and an audit of seed collected and success of propagation of plants to be cleared is assured. There have been many years knowing this would be required.

### **GROUND 5**

**Clearing principle (b): 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.**

### **Concern**

The assessment found the application to be at variance to Principle (b). This means it should not be cleared. The clearing has been justified by the inadequate NPO. The result will be a net loss of significant fauna habitat: For example *Banksia sessilis* at the site is significant foraging habitat for the endangered Carnaby's Cockatoo. Carnaby's have often been observed foraging at the coastal site. (See further details below)

Much of the fauna at Ocean Reef is already threatened. The further loss of habitat there will further exacerbate their plight and cannot be justified with an offset.

### **Local Extinctions**

The width of Ocean Reef bushland supports a high population and diversity of fauna that will not survive in a smaller area. The assessment acknowledged and quoted the scientific study that supported this fact. Fauna at Ocean Reef exist because the wide expanse of coastal bushland offers them undisturbed habitat. However, the assessment deemed this loss of coastal bushland width was offset by the NPO. This is to condemn and justify killing much of the Ocean Reef fauna by clearing because:

- The physical process of clearing will result in significant death and loss of many fauna species, especially small species such as invertebrate reptiles, insects, microfauna. Also reports with photos have been received of Quenda and bobtails run over on Ocean Reef Drive since the previous clearing started.

- Animals and birds need a set amount of a particular vegetation type to colonise. ‘Overcrowding’ risks all fauna species becoming weak and increases the risk of local extinction. Therefore, the offset cannot mitigate this environmental impact as even an attempt at translocation of some larger fauna such as Quenda will be only be for a very minor percentage of the total fauna species population. One Quenda needs 7ha of bushland unless ecological linkages are provided with predatory animal control.
- The ecological linkage to the NPO has been severed at Burns Beach housing development and major roads prohibit the movement north and eastward to the NPO at Carabooda. Further loss of the coastal wildlife linkages is a highly significant impact which is totally unacceptable. The importance of coastal linkages north – south and east - west has long been known by biologists and ecologists as there is much seasonal movement of fauna that needs low shrub level and tree shelter for connectivity.
- The NPO is 19km away. The WAPC objective is to maintain biodiversity at the local community level.
- **The assessor disregarded the EPA objectives: “to maintain representation, diversity, viability and ecological function at the species, population and community level.”**
- Clearing 2.89 ha is deemed low impact by the assessment, **but** this is just a small part of a much larger amount of clearing to follow the 8+ ha that has already occurred, and should be considered for its cumulative impact. **Clearing of significant bushland cannot be justified by breaking proposals into small portions.**

**This is a very major issue of concern with the whole Ocean Reef Marina and adjacent land development proposal. Indeed this alone is grounds for appeal of this proposal and for total review of the whole Ocean Reef Marina proposal.**

#### **Carnaby’s Cockatoo foraging habitat loss**

**Concern:** The justification that the NPO can compensate for the loss of foraging area for the endangered Carnaby’s cockatoo is fundamentally flawed. The offset area already exists and therefore the clearing will be a **net loss** of significant habitat. Indeed the Ocean Reef site is recognised as ‘**critical habitat**’ as it is close to the confirmed breeding site for Carnaby’s. And this is contrary to the approved Recovery Plan for Carnaby’s Cockatoo.

Even though the assessment states:

*‘that Banksia sessilis will be avoided where possible, and that a priority in the rehabilitation works in adjacent areas will be to incorporate this species where it naturally occurs. There is a confirmed breeding site for Carnaby’s cockatoo 3.8 kilometres from the application area and a confirmed night roosting site 4.5 kilometres from the application area. Based on the proximity of this area to breeding and night roosting sites and its location within the Swan Coastal Plain, an important foraging area, the application contains significant foraging habitat. Part of the NPO includes the rehabilitation of areas adjacent to the development area. The incorporation of planting suitable foraging species is essential so as to not reduce the foraging capacity of the local area for these populations.*

- Rehabilitation of bushland nearby with *B.sessilis* will take many years. A rehabilitation plan which has not been received, should plan to plant the accepted 10 times that cleared to compensate for the growing time to provide the food source necessary. **Any clearing should not be permitted until the replanted areas reach maturity as foraging habitat. This will take many years.**
- Since the clearing for the early works, the Carnaby’s Cockatoos have reported to have stopped their daily visit to some of the Ocean Reef bushland. This shows that no further clearing should occur there in pursuit of encouraging the birds back to whatever foraging plants remain. This has been an unforeseen consequence and is contrary to the Recovery Plan for these birds.

### Macroinvertebrates (visible insects)

- Declining macro invertebrate numbers are causing world wide alarm. These are poorly studied and are ‘the engines of the bushland’ required for pollination, composting and food source for higher up the wildlife chain. They will be further impacted by habitat loss and residential development lighting. This is another reason not to clear and develop in bushland.

### Outcome Sought:

**If this development progresses, it is strongly recommended that only sodium lighting is used in all public areas and it be a requirement of occupancy to advise those using the built form to use the same sodium lighting or lights (advice from David Knowles pers. comm. 2020).**

### Priority 4 Graceful Sun-Moth

The justification of the loss of habitat from clearing of habitat for the priority 4 Graceful Sun-moth with the NPO is unacceptable and should be rejected because:

- The assessment noted that although the habitat plant *L maritima* exists at the NPO, there is **no record** of the Graceful Sun-moth there.
- Although the assessment noted that *L maritima* will be considered in the rehabilitation work, this plant is difficult to propagate and find for purchase and revegetation. It would likely take years to provide enough habitat to replace the total development clearing loss.

**Federally EPBC Act listed threatened species** found in the ocean and beach component at Ocean Reef are numerous. **These have been overlooked.** This Clearing Permit is to allow the construction of the sea break wall and the destruction of the reef. Coastal threatened fauna overlooked include Sea Lions, Weedy Sea Dragon, Osprey and migratory birds.

- The EPA assessment of the marine component of the Ocean Reef Marina development stated that construction of the breakwall should not occur when the abalone are spawning.
- The same should apply to the threatened Weedy Sea Dragon which, according to the commercial abalone fisherman at Ocean Reef, come into Ocean Reef in November to breed.
- The EPA assessment noted that 2 km of the 3 km reef **would be destroyed**. This is a very significant and unacceptable loss of stepping stone beach for the threatened Australian Sea Lion that use this site.
- Loss of habitat for migratory shore birds.

### Outcome Sought

- **Because the proposal is seriously at variance to Clearing Principle (b) for many fauna species and for fauna assemblages, and on these grounds alone, the Permit be rejected.**
- Clearing should not be allowed to commence until a survey in the correct month to detect Graceful Sun Moth at the NPO is undertaken.
- The Graceful Sun Moth has been removed from the threatened species list. However, after the clearing of vegetation for the Ocean Reef Marina, it may well tip the balance so that it becomes again a Declared Rare Flora (DRF) species. The precautionary principle and principle of conservation of biological diversity should be applied **so that this risk cannot occur.**
- This development should be referred to the federal Department of Agriculture, Water and Environment (DAWE) under the EPBC Act because of the loss of habitat for federally listed species such as the Weedy Sea Dragon and Australian Sea Lion. Photos and Statutory Declarations are available to support this statement.
- Commissioned surveys at Ocean Reef may not detect these species as they are seasonal places of use. Local community knowledge of their presence should be used and not be dismissed.

## GROUND 6

**Clearing Principle c): Native vegetation should not be cleared if it includes or is necessary for the continued existence of Threatened flora.**

### Concern:

- High number of threatened flora species are likely present
- Mattiske cites **14 threatened and priority species** have potential to occur in the development area. The Mattiske flora survey did not record several locally known important and rare species.
  
- **Significant Limestone Cliff Top flora species**
  - Survey<sup>1</sup> by Keigherys in 1992 note the cliff top intermittent hypersaline wetland communities of *Frankenia pauciflora*, *Sarcocornia quinque* and *Sporobolus virginicus*. The vegetated areas south of Burns Beach are **the best remaining example of a 'limestone ridge forming cliffs' in the north-west corridor of the Perth Metropolitan Region** (Semeniuk, V&C Research Group 1991).
  - A concern is that the assessor dismissed the significance of the presence of this unique community by citing that *Frankenia pauciflora* is found elsewhere. This is not acceptable.
  - This landform and its assemblage of species simply cannot be offset at Carabooda. This includes species such as *Nitraria billardiera*, *Carpobrotus* sp, *Melaleuca cardiophylla*, *Hibbertia spicata*, Priority 1 *Leucopogon maritimus*, *Dodonea aptera* to name a few.
  
- **The Yanchep Rose** at Ocean Reef grows here at its southern-most location. This beautiful local plant is only found in a small area around Yanchep. The City of Joondalup continues to allow clearing of this habitat. With less than 12% remaining, the Ocean Reef Marina development **threatens this plant with extinction**. There has already been a distressing loss of Yanchep Rose when the early works cleared about 6 plants. This is a significant population. **Future proposed clearing will destroy all remaining known plants**. This is unacceptable.
  
- ***Marianthus paralias***
  - The assessment stated that '*The Recovery Plan for the critically endangered Marianthus paralias is to be compensated by rehabilitating the equivalent amount of surrounding bushland.*' What does this mean?
  - This makes no sense unless research reveals a way to propagate it from cuttings and determine what soil type it grows on.
  - **The UBC expresses extreme concern that neither DWER, nor City of Joondalup, nor associated parties in the Ocean Reef Marina development project, have attempted to conduct a rigorous flora survey within the footprint area for *Marianthus paralias*.** Reference <sup>1</sup> Flora of Burns Beach Coastal Reserve, GJ and BJ Keighery 1992.

### Outcome Sought

- **Because the proposal is seriously at variance to Clearing Principle (d), the Clearing Permit be refused.**  
**Further, because the offset at Carabooda does not in any way replace the losses of significant flora and vegetation, the justification of approval by this offset be declared invalid and be declared a failure in the process of assessment under the EP Act.**

## GROUND 7

**Clearing 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 assessment deemed that the clearing of this vegetation is **at variance** to Clearing Principle (e).
- Over clearing and development has transformed the northern coastline. This incredibly scenic 10 km stretch between Hillarys and Burns Beach remains one of the few largely intact coastal landscapes in the metropolitan area that still supports high levels of biodiversity.

### Concern

1. **This clearing permit is part of a cumulative 30 ha area to be cleared and must be considered in this context.**
2. Predicted coastal vulnerability will cause most coastal bushland to be lost within 90 years. **There has been no consideration for this loss of vegetation.**
3. **Aboriginal culture and heritage** has already been severely eroded because of over clearing.
  - Ocean Reef bushland sits amongst many registered and listed Aboriginal cultural sites. Only one was noted in the Strategen Environmental Management Plan (SEMP) but was then dismissed as not being in the direct development footprint.
  - There are 3 Registered Sites in Mullaloo 'scattered artefacts' Site ID 3672, 3673, and 3674.
  - From Ocean Reef to Tamala Park there are sites 21588, 22507, 3567, 18801, 3407, 3504 registered.
  - There is Registered Waugal site ID 22672 in part of Bush Forever Area 325 and approx 1.8 km north of Resolute Way.
  - The dingo and the crocodile dreamtime stories relate to the coastline from Fremantle.
  - Two Aboriginal implements have been found by a local geologist and bushcare volunteer (photos, and Statutory Declaration is attached) at co ordinates  
 $31^{\circ}44' 20.14''S, 115^{\circ}43' 19.58''E$   
 $31^{\circ}44' 29.75''S, 115^{\circ}43' 22.37''E$ .
  - A gnamma hole has been discovered within the development footprint. The Ocean Reef Marina development will destroy and erase this significant Aboriginal site feature.
  - This bushland was a vibrant example of an Aboriginal orchard of bush tucker and medicine plants.
  - A survey of these plants was not conducted and referred under the Aboriginal Heritage Act 1972 (AHA). This Act is supposed to protect all Aboriginal heritage sites in Western Australia whether or not they are registered.
  - This shows the disrespect of this development towards Aboriginal people as it has for the greater community. **These Aboriginal sites and their values need to be studied and recorded before any further approvals are permitted.**
  - It also shows the inadequate and unacceptable research that has been undertaken by the proponent. From the Interim Report of the review of the EPBC Act this year, this failure is common practice by developers, Australia wide.
4. Further clearing is required to re-route the Principal Shared Path (PSP) along Ocean Reef Drive and around the development. The 4.5m typical width cleared for a PSP has not been considered. See attached [map](#).



5. **Clearing extent:** The national objectives and targets for biodiversity conservation in Australia has a target to prevent clearance of ecological communities with an extent below 30 percent of that present prior to the year 1750, below which species loss appears to accelerate exponentially at an ecosystem level (Commonwealth of Australia, 2001). Less than 30% native vegetation remains in the Perth region.
- The Ocean Reef Marina site contains priority vegetation complexes, plants, animals and insects which reinforces that the area is already over-cleared.
  - Reference quoted by the assessor from assessment of the proposal under Clearing Principle (f): *A high proportion of these coastal vegetation complexes have been cleared for urban development and are under development pressure (Brown et al 2009).*
  - The City of Joondalup is quoted as having **only 11.8%** vegetation remaining. This would not include the loss of the 50 ha recently cleared **critically endangered Tuart woodland** at Lot 9004, Hodges Drive; and of the proposed development at Lot 551, Bush Forever at Pinnaroo Point, or the high density housing [proposed redevelopment](#) in “The Quarry”(consultation will only occur when already in the development stage ).

Further, the Quinns Rock Caravan Park including the development of 5 ha of the adjacent coastal Bush Forever site should be considered as a further proposed loss to coastal vegetation.

- **The Perth Region is a biodiversity sub-hotspot within the globally recognised SW biodiversity hotspot which is so described for conservation priority because it is under threat.** The Bush Forever plan and program is to retain at least 10% of each vegetation complex in the CAR conservation reserve system. With the excision of 26 ha from Bush Forever 325 for the Ocean Reef Marina development, **and** clearing of the surrounding vegetation, **and** inability to secure an offset with like for like Quindalup Dune vegetation complex, the amount of this vegetation remaining in secure tenure within the Metropolitan Region Scheme area is:
  - Quindalup vegetation type has **4.6% protected** for conservation (IUCN 1 – IV)
  - Cottesloe Central and South has **6.12% protected** for conservation (IUCN 1-IV)**This is significantly less than the minimum of at least 10% required for conservation.**

The current percentage remaining within lands Protected (IUCN I-IV) for Conservation (%) 2018 does not consider the existing clearing permit. There are clearing permits current for this local coastal vegetation type.

- **The proposal to clear a further 0.17ha of Bush Forever 325 for road batter outside the development foot print is a **breach of the [conditions set](#) by NWM JDAP for the seawall.****

### Outcome Sought

- **The Clearing Permit be refused.**
- **No further clearing in this over cleared area be permitted in order to preserve and maintain Aboriginal sites and culture.** The Ocean Reef Marina development will erase the significant Aboriginal artefacts, gnamma hole, the significant remnant Aboriginal orchard and reef fishing ground.
- **The three new Aboriginal artefacts found as well as the site of Aboriginal significance are reported to the correct Aboriginal Heritage Department for investigation and verification.**
- **No further clearing in this over cleared area be permitted** because of the predicted loss from impacts to coastal processes and climate change.

- Land be set aside in secure tenure to preserve our unique biodiversity and including rehabilitation. The Community Coastal Values Survey 2018 was the first community consultation without a development plan and supports this statement.
- **No further clearing in this over cleared landscape be permitted as the public has been further deceived** about the extent of the loss of their bushland because the re-routing of the PSP has not been considered in the development footprint.
- **Uphold the JDAP condition not to clear outside the development footprint.**
- **No further clearing be permitted in this over cleared area because we will lose the required representation levels of vegetation types in the SCP portion of the Perth Metropolitan Area.**

## GROUND 8

**Clearing 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.**

### Concern

1. **Ocean Reef bushland and the remaining Bush Forever 325** is part of a regionally significant fragmented bushland/wetland linkage. The adjacent bushland to the east; part of Greenways 4, 1, 10 (Tingay, Alan & Associates 1998a)
2. [Monitoring](#) of the Ocean Reef ground water, part of this water course, was a condition for the Marina proposal. It shows groundwater nutrient levels are **four times higher than acceptable limits** with no strategies or explanation offered to address this eutrophication. These nutrients could be moving through the GSS underground water courses from as far away as Swan Valley farms. Removal of native vegetation here or along the GSS ecological linkages will diminish the ability of vegetation to take up these nutrients.
3. The levelling, crushing and compacting of the limestone karst formation where the fresh water flows from this watercourse to the Reef will likely cause a plug and cessation and/or change of the freshwater flow. **This will significantly alter the watercourse and this significant hydrological change has not been assessed or considered.**
4. **Wastewater contamination:** The Beenyup treated wastewater outfall is rated as the 6<sup>th</sup> worst nutrient wastewater outfall in Australia as at 2018 by the National Outfall Database. The level and nutrient concentration of wastewater and associated contaminants is to increase. This, combined with significantly reduced freshwater flushing from the altered hydrogeology, will render the trapped water eutrophic and potentially toxic within the Marina breakwall, **and therefore unsuitable for recreational pursuits and sea life.** Furthermore, the fishing platforms on the outer breakwaters promoted for recreational pursuits are likely to be unusable as the increased wastewater surface plumes will be blown by predominant south westerly winds into the base of this 18.5 metre rock structure condemning the area incompatible with marine life.
5. Groundwater discharges in the area are known to carry high nutrient loads due to a range of environmental sources. These discharges are also anoxic as they enter the water column. Considering the already high nutrient burden introduced by the Beenyup outfall, the addition of more groundwater nutrients presents higher levels of concerns. **Combining high levels of background, low dissolved oxygen and suspended sediment is the catalyst for algal blooms some of which may be toxic, and thus seriously depleted water quality.** There are little or no measures or mitigations in place to address this major issue. See list of missing plans page 1.

6. Expert advice suggested that **endangered Stygofauna** could be living within the caves formed from the freshwater flow to the ocean. A request to DevelopmentWA was made by a local bushland volunteer to test for this in the geotechnical works. The DevelopmentWA response was that none were found.

**We appeal against the assessment of clearing principle (f) as it fails to recognise this association with a watercourse or wetland when it already acknowledges the Gngangara Mound Ecological Linkage in clearing principle (h) assessment.**

### Outcome Sought

- The clearing permit be refused.
- Further that it be refused because the proposal is seriously at variance to Clearing Principle (f) and to the purpose of the EP Act to protect the environment and its biodiversity.
- DWER be required to investigate and report to you the adequacy of the procedure DevelopmentWA took to investigate the presence of Stygofauna.
- That a detailed State Government strategy for maintaining water course quality is implemented by Government to:
  1. Monitor groundwater levels and water quality of the Gngangara Mound groundwater system and put in place measures to rectify water quality where necessary.
  2. Stop widespread and patch by patch clearing to avoid and reduce impacts on the Gngangara Mound system.

## **GROUND 9**

**Clearing 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 area.**

### Concern

- The severing and fragmentation of the wildlife corridor with 7 lanes of roads in and out of the Marina, wildlife will be confined to fragments of vegetation and/or will suffer road kill during attempted seasonal movement.
- This will lead to loss of species diversity of flora, fauna and especially invertebrates, insects etc and their population numbers due to interference of normal movement along with habitat clearing of other parts already approved or proposed.
- The cumulative impact of all the separate clearing permits is a fundamental concern of failure of proper environmental assessment process for the Ocean Reef Marina and its associated land developments.
- The Ocean Reef Marina development condemns the vibrant biodiversity of animals that daily enriches local lives.
- This healthy unbuilt expanse of nature nearby promotes healthy people and sense of place. Coffee shop visitation overlooking a rock wall and dirty marina can never replace ever changing nature and its seasonal displays.
- The observed reduced use of Ocean Reef bushland by Carnaby's Cockatoos since the initial clearing has been an unforeseen and disappointing loss.

### Outcome Sought

- **The clearing permit CPS 8947/1 be refused. AND:**
- **The precautionary principle be applied and upheld.**
- **The cumulative impacts of CPS 8947/1 and all the other permits for clearing for the Ocean Reef Marina proposal be formally reviewed and re-assessed.**
- For this development to come close to its purported standards of **“world class”** with highest environmental standards, safe, world class wildlife crossings be built to the highest

environmental standards over the existing cleared areas to reduce local wildlife deaths and extinctions.

## **GROUND 10**

### **Concern**

The justification for approval of the housing development as part of the Ocean Reef Marina (ORM) is that it had been a planned project for many years. This is not a valid justification for its approval under the EP Act.

### **Outcome Sought**

**The Clearing Permit be refused.**

## **CONCLUSION**

**It is strongly recommended and requested that this Appeal be upheld and the Clearing Permit be refused.**

The assessment determined that: *It is considered that the impacts on environmental values of the proposed clearing of 2.89 ha of native vegetation have been suitably minimised and mitigated with the Negotiated Planning Outcome endorsed by DPLH, DBCA and EPA services with rehabilitation conditions.*

**This is unacceptable because of all the six grounds of appeal and associated reasons presented above.**

**Your attention is especially drawn to the issue of the need to assess and consider the cumulative impacts of all the clearing permits. It is totally unacceptable to break up this major Ocean Reef Marina and housing development proposal into small sections with each to be assessed independently under the Clearing Regulations. This represents a failure in the proper process of rigorous environmental impact assessment under the EP Act.**

**The destruction of so much of our little remaining urban nature for a housing development and marina is contrary to the EPA's objectives, our state's coastal planning and sustainable planning objectives:**

- “to maintain representation, diversity, viability and ecological function at the species, population and community level”
- conserving high value landscapes, fish resources, biodiverse flora and fauna, high use nature recreation areas. It does not follow the coastal set back rules, it is vehicle dependent, and there is no public transport plan.

Representatives of the Urban Bushland Council WA Inc request the opportunity to meet with you to discuss these matters.

Yours sincerely

Chairperson, Urban Bushland Council WA Inc.

PO Box 326 West Perth WA 6872

[ubc@bushlandperth.org.au](mailto:ubc@bushlandperth.org.au)

Phone 9420 7207

[www.bushlandperth.org.au](http://www.bushlandperth.org.au)