

admin@appealsconvenor.wa.gov.au

Appeals Convenor
Level 22 Forrest Centre
221 St Georges Tce
PERTH 6000

**Appeal against EPA Report 1714
Bunbury Outer Ring Road - Southern section assessment report.**

Dear Appeals Convenor

The conclusion of the EPA in Report 1714 is as follows:

'It is the EPA's view that reasonable conditions could be imposed on the proposal to ensure its implementation will be consistent with the EPA's objectives for the key environmental factors of terrestrial fauna, flora and vegetation, inland waters and social surroundings.

The EPA recommends that the proposal may be implemented subject to the conditions recommended in Appendix A.' (p vi BORR southern section)

The Urban Bushland Council WA Inc appeals against this recommendation, as the significant damage to the environment cannot be compensated for by the implementation of the recommended 'reasonable' conditions.

Looking at the key environmental factors identified by the EPA, the following table lists the EPA's assessments in matters within Terrestrial Fauna and Flora and Vegetation.

Western Ringtail Possum habitat (60.9ha)	Significant residual impact
Displacement of WRP	Significant residual impact
Black Cockatoo habitat (60.9ha)	Significant residual impact
1,088 Black Cockatoo trees with potential nesting hollows	Significant residual impact
11 Black Cockatoo trees with suitable nesting hollows (2 with signs of use)	Significant residual impact
South-western Brush-tailed Phascogale habitat (39.2ha)	Significant residual impact
Banksia Woodlands of the SCP PEC (23.4ha)	Significant residual impact
Tuart Woodlands and forests of the SCP PEC and southern SCP Tuart- Peppermint Woodland PEC	Significant residual impact

The EPA concludes that all these significant residual impacts can be regulated through conditions. We examine one key example: that of Black Cockatoo habitat and potential nesting hollows. The recommended conditions for these factors are conditions 1, 4, 5 and 9.

CONDITION 1

'Clearing and disturbance of no more than 71.5 ha of Native vegetation within a 200 ha development envelope.'

CONDITION 4.1 Terrestrial Fauna

1 (b) 'clear no more than 60.9 ha of black cockatoo foraging and breeding habitat'

(c) 'clear no more than 1088 black cockatoos' potential nesting trees and 11 trees with suitable hollows'

CONDITION 5

Not applicable to black cockatoo species.

CONDITION 9 OFFSETS

'9-1 The proponent shall implement offset measures to counterbalance the significant residual impacts to the following environmental values:

(2) 60.9ha of black cockatoo foraging and breeding habitat

(4) 23.4 ha of Banksia Woodlands of the SCP TEC

(5) 4.4 ha of Tuart woodlands and forests of the SCP TEC and

(6) 4.5 ha of Southern SCP Tuart-Peppermint Woodlands PEC'

Notably the above does not include that there are 3 *species* of endangered cockatoos involved. 60.9 ha is a large area of habitat loss in this over-cleared region.

Nor does it say that the Banksia Woodlands of the SCP is listed as *endangered* under the EPBC Act.

Nor does it say that the Tuart Forests and Woodlands of the SCP is listed as *critically endangered* under the EPBC Act.

'9.2 To meet the requirement of condition 9-1 the proponent shall undertake offset measures to the extent and at the locations as set out and described in Table 1:' These offsets are land acquisition, on-ground management and in the case of Tuart woodlands and forests of the SCP TEC, revegetation as well.

Acquired lands and DBCA lands for offsets are to 'receive on-ground management and revegetation offset measures.' ((4) (a) (b))

Whilst it is appreciated that the Proposed Offset Conservation Areas will be protected, either '*ceded to the Crown*' or '*managed under other suitable mechanisms*', **the fact remains that there will be a net loss of habitat.** This is environmentally unacceptable and does not comply with the Recovery Plan for black cockatoos. Further, the first category in the mitigation hierarchy is to **avoid** the impact, and this should be applied for these endangered black cockatoo species.

What is causing black cockatoos to be listed as vulnerable to extinction, or endangered – that is - in danger of becoming extinct? And this in our lifetime?

Answer: Loss and fragmentation of habitat (forests and bushland), loss of trees in which to breed, large scale clearing in the wheatbelt and Banksia and Tuart woodlands on the SCP, and fires.

In trying to, or planning to protect a species in danger of extinction, the rule is to protect the numbers remaining by **protecting** and **increasing its habitat.** Clearing 60.9 ha of black cockatoo

habitat, removing 1,088 black cockatoo trees with potential nesting hollows and the rest of the proposed clearing as noted above, **is not protecting** the three species of black cockatoo.

The EPA's objective for Terrestrial Fauna is *'To protect terrestrial fauna so that diversity and ecological integrity are maintained.'* So to allow clearing is inconsistent with this objective of the EPA.

As stated in the EPA's document 'Environmental Factor Guideline: Terrestrial Fauna', *'Ecological integrity is the composition, structure, function and processes of ecosystems, and the natural range of variation of these elements.'* Bulldozing and building 10.5 km of freeway with 3 km of rural distributor roads and infrastructure with 76 ha of vegetation clearing, does not align with, and is inconsistent with, ecological integrity being maintained.

Therefore we appeal on the grounds that the EPA has not followed its objectives and guidelines in reaching the recommendation that the proposal may be implemented. The process of justifying the clearing with an offset to secure for conservation an area that already exists is flawed as a net loss of extent and integrity remains. This is unacceptable.

The UBC supports the statement quoted below:

'Just like climate change, you shouldn't wait till the last individual of a species is about to be extirpated before you take the action that you should have taken 20 years before. We all, including the EPA, know that the future of the Ringtail Possum and Carnaby's Cockatoo is bleak, as this project is not the only and last project that will impact them and their habitat. It is time to draw the line, and not to pass on the extinction debt to future generations.'

"It is time to say NO. It is time for roads to be built better and smarter, not bigger, and in the right place, not the wrong place. It is time for us to pay the price of development, not the plants and animals." (Dr Eddy Wajon (pers. comm. 28 October 2021).

EPA SUMMARY

The EPA is *'also encouraging the proponent to include further additional mitigation measures throughout the assessment process.'*

Then follows 4 measures the proponent has put forward as additional mitigation measures. The first point... *'the proponent has avoided impacts to an Aboriginal heritage tree and a heritage - listed Tuart tree – the 'Grey giant' (*Heritage Place No. 26059)'* is an example of an action that the proponent should have proposed without prompting.

The other points concerning Tuart Forests and Woodlands of the SCP CE TEC, Tuart-Agonis PEC, and Southern SCP Tuart communities, are equally important and will have significant residual impacts if the proposal is implemented.

The UBC emphasises that the conditions as recommended will make the outcome inconsistent with the EPA's objectives. This is totally unacceptable, and is reason alone that the clearing proposed should be refused.

Flora and vegetation (p iii)

The EPA advises that there are *'direct impacts to 23.4ha of vegetation representative of the Banksia woodlands of the SCP TEC'* and that the Assessment finding is that *'This is a significant residual impact.'* However, the EPA finds that the impact is likely to be able to be regulated through reasonable conditions (1 and 3) including a requirement for offsets (condition 9). The conclusion is then that (A) the likely environmental outcomes are *'small incremental losses to the extent of relevant PECs relative to their respective remaining extents'* and (B) *a tangible*

improvement to the health and condition of relevant PECs and transfer of lands containing greater quantities of these communities to protected conservation tenure.'

Of (A), comparison of the loss of 23.4 ha of Banksia Woodlands of the SCP with their remaining extent as being but a small incremental loss is a poor and incorrect argument. Banksia Woodlands *'once formed an almost continuous band with a median patch size estimated at 146 ha. They are now heavily fragmented, with a median patch size estimated at 1.6ha. The number of patches had been divided from around 132 into over 12,000 patches'*. (p.8 Banksia Woodlands of the Swan Coastal Plain; a nationally protected ecological community). This is a massive loss, past the tipping point for Banksia Woodlands.

EPBC Act listing: Importantly, the further clearing loss of the listed endangered Banksia Woodlands of the SCP in the EPA's advice for this project is inconsistent with the **Approved Conservation Advice** for this listing under the EPBC Act. The Advice states that the conservation objective is to **'PROTECT the ecological community to prevent its further loss of extent and condition'**. This means that no further clearing is acceptable and should not be permitted.

Of (B), although there would be a tangible improvement as explained, there would still be **a net loss as well as fragmentation.**

Inland waters (p iv)

Direct impacts would be 0.2 ha of Conservation Category Wetlands and 1.4 ha of Resource Enhancement Wetlands. The EPA advises that this is *'a residual impact'* that is justified with conditions. The same argument that these losses are relatively small compared to the proportion remaining is not acceptable. Any loss of Conservation Category Wetlands and their buffer zones is unacceptable and should not be permitted.

'As the urban and rural areas continue to expand and engulf more wetlands, the remaining wetlands become pressured by vegetation clearing, grazing, flooding, organic and metal contamination, nutrient enrichment and groundwater extraction'. (Wetlands of the SCP Volume 2A: Hill, Semeniuk A, Semeniuk V and Del Marco)

'Treatment of one wetland in isolation immediately restricts identification of its values....a restrictive, isolated wetland attitude has led to the piecemeal loss of Perth's wetland resource and we are now left with a fraction of the original resource'. (p.105 ibid)

This comment applies to wetlands on the Swan Coastal Plain beyond Perth as well.

Rather than impacting wetlands, there is supposed to be a wetland buffer to protect the natural attributes and functions of wetlands (EPP for Wetlands of the SCP). This EPP should be fully restored.

Social Surroundings (p v)

Aboriginal Heritage sites: Under the Barnett government, 1,262 sites were blocked from gaining protection through reinterpreting definitions within the Aboriginal Heritage Act 1972. More than 3,000 Aboriginal heritage sites lost registration. This is unbelievable.

The article states: *'At no stage have Aboriginal custodians been notified about the changing status of their heritage'*. (Separate but unequal: the sad fate of Aboriginal Heritage in Western Australia, 8 December 2015 NITV)

The site listed by the EPA/proponent as Place ID 18884, has *'no remaining stratigraphic integrity or research potential'* and is now *'not considered a site due to previous disturbance'*.

This is a sad and unacceptable indictment of our lack of respect for Aboriginal people and their country.

Holistic impact assessment (p vi)

'The EPA formed the view that the holistic impacts for this proposal can be managed to be consistent with the EPA's environmental factor objectives'.

The EPA's view is that the four key environmental factors identified can be considered holistically.

It would be advisable to consider the whole proposal holistically within the context of SW Western Australia. Had this been done, the conclusion of the EPA would have been that there has been extensive and unsustainable clearing in the south-west of Western Australia, and therefore that further invasive and unsupported clearing that further fragments the south-west of WA is environmentally and socially unacceptable.

Climate change

The south west of Western Australia has been identified as a global drying hotspot with reduced annual rainfall, and more extreme weather events. We are already enduring the results of climate change and we fear for generations now and in the future. Thus the *'Principle of Intergenerational equity'* should be actively embraced by the EPA. Nature in the south west possibly will not be able to adapt to the rapid changes being experienced. We do not want to help nature decline and perish by such proposals at this one.

CONCLUSION

The UBC recommends that this proposal not be approved on all the grounds above. Alternative locations for the Ring Road in suitable already cleared lands should be investigated. In addition, the need and business case for the Ring Road is questionable and should be reconsidered. Is it really necessary?

Representatives of the Urban Bushland Council WA Inc request the opportunity to meet with you to discuss this EPA Report 1714 for BORR Southern section.