



26th March 2023

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Department of Water and Environmental Regulation
Prime House
8 Davidson Terrace
Joondalup WA 6027

Dear DWER Officer/s,

**CPS 10068/1: Proposal title: Perth Surf Park
Submission against granting of a Clearing Permit (s 51E of the EP Act) to
PSP Properties Pty Ltd as trustee for Perth Surf Park Property Trust, Prinsep Road Jandakot.
For clearing of 5.26 ha in Lot 800 and Lot 9001 Prinsep Rd., and Lot 801 Knock Way, Jandakot.**

Whilst concerned at the need to, the Urban Bushland Council WA Inc. (UBC) is pleased to present this submission in response to your invitation to address the issues of relevance to us.

Our organisation is a community association of ~90 member groups (each with their own local membership from 10-165 individuals) and 100+ individual members – all of whom have a common interest in the conservation of our natural biodiversity, with a particular focus on urban bushlands and wetlands. UBC is an incorporated, not for profit organisation registered as a charity. <https://www.bushlandperth.org.au/>

UBC provides a public voice for what remains of our urban bushland and wetlands, especially on the Swan Coastline Plain and surrounding areas. We advocate to all levels of Government for natural areas protection. We do this with limited resources through the amazing efforts of our 'Friends Groups' from all walks of life 'working' with the land managers to maintain and improve the health of remnant patches of neighbourhood nature— many working in close collaboration with your department and their local council.

UBC acknowledges the Noongar people as the spiritual and cultural custodians of this land. Together we continue to care for Country.

SUBMISSION

From aligning the proposal by PSP Properties as trustee for the Perth Surf Park, with the ten clearing principles, the Urban Bushland Council (UBC) submits the proposal is at variance to seven of the ten clearing principles – (a), (b), (c), (d), (e), (f), and (g), and may be at variance to principles (h) and (i). Therefore a Clearing Permit must not be approved.

Process concern for your attention

Because the **process** of assessment of the Surf Park by the EPA under s.38 G(1) is still not completed (the decision to 'not assess' is concurrently open for appeal), the process of application for this Clearing Permit CPS 10068/1 should be halted until the outcome of the appeal process by the Appeals Convenor and Minister for the Environment is completed. We understand that this is a requirement under the *EP Act*. **It is a major concern that this Clearing Permit process is clashing with the Environmental Impact Assessment process with public comments due for both processes on the same date.**

Nevertheless, comments are made on the Clearing Permit application under each of the nine Clearing Principles below:

Native vegetation should not be cleared if:

a) it comprises a high level of biological diversity

In its document entitled 'Biodiversity', the EPA says that '*The conservation of biodiversity and maintenance of wider ecological functions is essential for long-term protection of the environment and human survival.*' Threats to biodiversity include '*the failure to adequately value biodiversity in decision-making;*'

In December 2022, '*governments finalized and adopted the Kunming-Montreal Global Biodiversity Framework with the aim of halting and reversing the loss of biodiversity and putting nature on a path to recovery by 2030 for the benefit of people and the planet.*' Targets were agreed to protect at least 30% of lands and to restore at least 30% of degraded ecosystems to bring the loss of high areas of biodiversity to zero. (UN Secretariat of the Convention on Biological Diversity.)

The Surf Park proposal, if implemented, would destroy the high level of biodiversity at the site by virtue of the fact that the whole of the lot/s are to be cleared, except for 0.482 hectares at the two edges, '*containing several small trees.*' (Referral). This ecosystem is inherently biodiverse.

The Approved Conservation Advice (under the *Environmental Protection and Biodiversity Conservation (EPBC) Act*) for the *endangered* Banksia Woodlands of the Swan Coastal Plain ecological community, describes the Banksia Woodland understorey as '*a species rich mix of sclerophyllous shrubs, graminoids and forbs*'. The ecological community '*is characterised by a high endemism and considerable localised variation in species composition across its range*'. (p 9 PGV Vegetation Assessment).

A visit to the site surprises with the healthy appearance of the trees, and extent of understorey species, despite the weedy presence.

Focused Vision lists some of the quadrat understorey plants as below:

Listed in Quadrat CC1 '*Banksia menziesii/B attenuata* Low Open woodland over *Phlebocarya ciliata/Lyginia barbata* Open Low Heath and **Ehrharta calycina* Grassland' (excluding weed species) included:

Hibbertia hypericoides, Arnocrinum preissii, Phlebocarya ciliata, Burchardia congesta, Patersonia occidentalis, Lechenaultia floribunda, Bossiaea eriocarpa, Lyginia barbata, Dasypogon bromeliifolius, Pultenaea sp., Restio sp., Dampiera linearis, Petrophila linearis, Laxmania squarrosa.

In quadrat CC2 '*Banksia menziesii/B. attenuata* Low Open Woodland over *Xanthorrhoea preissii* Shrubland over *Dasypogon bromeliifolius/Phlebocarya ciliata* Closed Low Heath',.

There are only five native species listed, and this could be because of the spread of *Dasypogon bromeliifolius*, as this species thrives in this bushland.

In Quadrat 3 '*Banksia menziesii/B. attenuata* Low Open Woodland over *Xanthorrhoea preissii* Open Shrubland over *Phlebocarya ciliata* Open Low Heath'.

Eighteen species of native plants are listed, including *Macrozamia riedlei, Anigozanthos manglesii, Gastrolobium capitatum, Phlebocarya ciliata, Patersonia occidentalis, Dasypogon bromeliifolius, Bossiaea eriocarpa, Burchardia congesta, Scholtzia involucreta, Hibbertia subvaginata, Restio sp, Lomandra hermaphrodita, Caustis dioica, Petrophila linearis, Desmodcladus flexuosus, Laxmannia squarrosa, and Conostylis aculeata.*

Most of the native vegetation in the SW of Western Australia grows nowhere else in the nation or the world (and thus is endemic) and the list of species recorded from the Focused Vision quadrats confirms the high level of biological diversity.

A second vegetation community – FCT 4 '*Melaleuca preissiana* damplands' perhaps had no quadrat research. This is an important wetland community which is present on the site. Its values should be recognised.

Therefore the proposal is seriously at variance to principle (a) and a clearing permit should not be granted.

Native vegetation should not be cleared if:

- (b)** It compromises the whole or part of, or is necessary for the maintenance of, a significant habitat for fauna indigenous to WA;

In 2007, in relation to the development of Fiona Stanley Hospital, the consultant GHD wrote of Carnaby's Cockatoo '*Cumulative impact by removal of individual sites is likely to have a long-term impact on the survival of this species.*' Over those 16 years the state, the nation and developers have continued clearing significant habitat of indigenous fauna. The extent of clearing is continuing and continues to put Carnaby's Cockatoos on the downward road to extinction. This is unacceptable and clearing patch by patch must be stopped.

We have evidence from Focused Vision Consulting, '*Cockburn Central East Local Structure Plan, level 1 Flora and Fauna Assessment*' of both Carnaby's Cockatoo (endangered) and Forest Red-tailed Black Cockatoo (vulnerable) at the proposed development site 'feeding on native tree fruits'. Carnaby's Cockatoo parents forage with their offspring in significant areas such as Lot 800, the juveniles who become adults and have offspring, use the same foraging corridors. These corridors are like highways mapped over the landscape. An even more fragmented landscape, with little revegetation occurring puts Carnaby's cockatoos in a continuing and desperate situation.

Research has shown that even if Carnaby's cockatoos feed on pine seeds, canola, or non-native plants, they still need to feed on native vegetation for protein. If feeding on canola the cockatoos then need twice as long feeding in native vegetation (Murdoch University).

Forest Red-tailed Black Cockatoos have been observed feeding on site and Baudin's Cockatoo may use habitat on the site.

This site is significant habitat for these threatened Black Cockatoo species and must be retained. **Thus, the proposed clearing is seriously at variance to this principle (b) and should not be permitted.**

Of other fauna species, Focused Vision note:

- *Evidence of the Priority 4 species, Southern Brown Bandicoot/Quenda was observed in the form of diggings and this species is likely to inhabit the areas of dense understorey within the Paperbark Woodland/Swamp habitat, as well as probably the Banksia Woodland habitat.*
- *Rainbow Bee-eater (Merops ornatus) was determined to have a moderate likelihood of occurrence in the study area, based on recorded sightings by GHD (2015) and the presence of potentially suitable habitat.*

Rainbow Bee-eaters are listed under the EPBC Act.

Of *Lerisa lineata*, the Threatened Species Scientific Committee writes:

'As this species is largely restricted to the Swan Coastal Plain where its distribution is centred on the highly disturbed and developed southern Perth Metropolitan Area, all remaining populations of L. lineata are highly fragmented with very few of these (e.g. Garden Island and Yalgorup National Park) in conservation areas of significant size. The primary concern with L. lineata, notwithstanding we can only speculate on population size or trends, reproductive potential for recovery and ecological or reproductive specialisation (Cogger et. al. 1993), is range size in Australia which is progressively decreasing due to habitat loss.'

'The threatened status of L. lineata due to habitat loss has been widely advocated for since 1984: in Burbidge and Jenkins 1984; Ehmann and Cogger 1985; Wilson and Knowles 1988; Kennedy 1990; Ehmann 1991; Egerton 1997; Nevill 2005; Davis and Brooker 2008 and Bush et al. 2010.'

Lerista lineata is listed as **Endangered on the IUCN Red List of Threatened Species** and as Endangered under NGO – the Action Plan for Australian Lizards and Snakes 2017.

On a visit to the proposed development site on Friday 17 March 2023, two *Ctenotus* were seen, one photographed. Also seen within the first 20 minutes was a blue butterfly, a weevil, a Hobbie, honeyeaters

and two parrots. This site is alive and is a functioning community – it is obviously a significant habitat for fauna indigenous to WA.

We note that a plant that supports the endangered Graceful Sun Moth (*Synemon gratiosa* - P4), *Lomandra hermaphrodita* is recorded, so that this moth may be present at the site.

Also of interest are two species of frog.

The UBC is concerned for the proposed 'Fauna trapping and relocation plan' 'during clearing to mitigate impacts on native fauna' (p 16 Cockburn Surf Park Referral) because:

- (i) the proposed clearing should not be approved and
- (ii) each area into which caught fauna are to be released, already would have its suite of fauna and
- (iii) fauna is traumatised.

This site is habitat for the fauna that has existed over generation after generation. Most of the small fauna cannot be caught and 'relocated'.

The statement by PGV that '...the Site is not currently utilised' (p 54 in relation to amenity) is not correct as the site is habitat for what exists in nature there.

It follows therefore, that the proposal is seriously at variance to principle (b), and thus a permit should not be granted.

Native vegetation should not be cleared if:

(c) It includes, or is necessary for, the continued existence of, rare flora;

Flora declared rare have not been found in the site in searches by consultants. However, the UBC comments on *Banksia ilicifolia*. This species is highly sensitive to dieback from *Phytophthora cinnamomi*, and the fact that it is flourishing in the site, indicates that dieback is absent.

The species is an obligate phreatophyte – reliant on accessing groundwater. Due to the falling water table in Perth, 'Banksia ilicifolia population and vigour has fallen considerably since the 1960s' (Groom, PK; Froend, RH; Mattiske, EM; Gurner, RP (2001). "Long-term Changes in Vigour and Distribution of Banksia and Melaleuca Overstorey Species on the Swan Coastal Plain". *Journal of the Royal Society of Western Australia*. 84: 63–69.) As the proposal will have a significant impact on groundwater levels and will likely destroy the wetland ecosystem, *Banksia ilicifolia* will be at risk – including potentially in the adjoining bushland areas.

As almost every proposal for development of projects with clearing is allowed to proceed, common species become more rare. An appreciation of our unique and threatened vegetation is required by decision makers and government leaders.

The proposal is at variance to principle (c) and therefore a permit should not be granted.

Native vegetation should not be cleared if:

(d) It comprises the whole or a part of, or is necessary for the maintenance of a threatened ecological community;

Banksia Woodlands of the Swan Coastal Plain ecological community is listed by the Federal government under the *EPBC Act* as a Threatened Ecological Community (TEC) at the level of 'endangered'. The 3.16 hectares of Banksia woodland proposed to be cleared is in 'good to very good' condition.

The *EPBC Act* Approved Conservation Advice for this TEC is to:

- (1) PROTECT the ecological community to prevent further loss of extent and condition
- (2) RESTORE... by active abatement of threats, re-vegetation and other conservation initiatives and

(3) COMMUNICATE WITH AND SUPPORT researchers etc.

This means, of course, that no more clearing of this Banksia Woodlands TEC, must occur. This needs to be respected by DWER under the WA Clearing Regulations.

Personal observation at the site (17 March 2023) showed that the site is very impressive and in very good condition. With the mature trees, new Banksias are growing, indicating that the site is alive and operating as a healthy ecosystem. Banksia and *Eucalyptus tottiana* canopy is dense, providing shelter for birds. Christmas Trees are especially significant to Noongar people.

The proposal is seriously at variance to principle (d) and is also contrary to the Approved Conservation Advice under the EPBC Act. Therefore a clearing permit must not be granted.

Native vegetation should not be cleared if:

(e) It is significant as a remnant of native vegetation in an area that has been extensively cleared

PGV maintains that 'There is remnant vegetation on the Site, however it is not considered to be a significant remnant' (p 60). The UBC disagrees. Every remnant now is significant. Two of the findings of the WA State of the Environment Report (2007) were that Vegetation cover decreased in 64% of monitored bioregions in the South West over eight years from 1996 - 2004. '*There is ongoing loss and degradation of biodiversity in WA*' (ibid).

The area has certainly been extensively cleared. Of the Bassendean Complex Central and South, **only 1.2% of what occurred prior to settlement, is secure for conservation**. (EPA - Perth and Peel @ 3.5 Million – interim strategic advice July 2015). This does not align with the consultant's figures and comments.

The proposal is seriously at variance to principle (e) and should not be granted.

Native vegetation should not be cleared if:

(f) It is growing in, or in association with, an environment associated with a watercourse or wetland;

The wetland associated with the proposed site is on the north part of the site and is classified as Multiple Use Dampland – *Melaleuca preissiana* over *Acacia longifolia* woodland/swamp. Understorey species include *Astartea affinis* and *Hypocalymma angustifolium*.

The UBC contests the statement by PGV that '*Multiple Use Wetlands have very few ecological attributes and functions*'.

It is estimated that on the Swan Coastal Plain alone, between 70 - 80% of all wetlands have been filled, drained or cleared. The wetlands which remain are highly vulnerable to impacts from urban and rural encroachment. It is therefore very important that all that remain are protected and managed in an ecologically sustainable way. (Waters and Rivers Commission April 2001)

As this wetland is part of the wetland to the north, its clearing and filling will diminish the size of the wetland with which it is associated.

Also, abstraction of large quantities of groundwater for use in the Surf Park will have a significant deleterious impact on the wetlands on, adjacent and near the site. They are hydrologically linked.

Therefore, the proposal is at variance with principle (f) and should not be granted.

Native vegetation should not be cleared if:

(g) The clearing of the vegetation is likely to cause appreciable land degradation

As the whole site will be cleared, if approved, the land will be appreciably degraded.

Also, as the land is part of a significant linkage – a stepping stone for birds to the north, east, south-east, south and on the western side of the Freeway, that is one less stepping stone in the fragmented landscape. This is unacceptable.

Groundwater drawdown from abstraction for use at the Surf Park will have a significant impact on surrounding vegetation and the wetlands.

The proposal is at variance to principle (g) and should not be granted.

Native vegetation should not be cleared if:

(h) The clearing of native vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area;

As stated above, groundwater drawdown from abstraction for use at the Surf Park will have a significant impact on surrounding vegetation and the wetlands.

So many hectares of Banksia Woodlands have been cleared for industry in this area. Although Google maps shows an intact area of bush to the north-west, this has probably all been cleared - (DRA Cranes is shown). Various pockets of bush remain in the vicinity between which birds and insects could travel – providing habitat and pollination opportunities. Loss of ecological linkage will be significant in this now highly fragmented landscape.

The proposal is likely to be at variance to principle (h) and this is unacceptable.

Native vegetation should not be cleared if:

(i) The clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water;

It is not stated whether the site lies within the Jandakot groundwater protection area, as detailed in SPP 2.3: *Jandakot groundwater protection*.

The following statement in PGV's Report (p 46), leaves us very concerned: (i) about the explanation that drawdown will be minimised through initial filling [of the Surf Park pool] during winter months and that groundwater will be impacted (p 7) and (ii) using the scarce resource of scheme water for up to 50% of the initial filling of the lagoon. Copied below are the words from the PGV Report (p 46):

- Initial filling of the lagoon will be undertaken during winter months to minimise the potential impact of drawdown and ensure that aquifer recovery is as fast as possible, assisted by winter recharge.
- Initial filling of the lagoon may include up to 50% scheme water to reduce the potential drawdown if required.
- Topping up will be limited to up to 8 hours at a pumping rate of 10 L/s, or 3 hours at up to 25 L/s.

'Groundwater beneath areas of bushland is usually of high quality and is free of contamination that almost always results from urban development' (Dr Steven Appleyard, pers. com.). With the clearing of the site, groundwater will likely be contaminated from ground disturbance.

Using our groundwater and scheme water for this proposal is not supported.

The proposal is likely to be at variance to principle (i) and this is unacceptable.

CONCLUSION

So many times, clearing permit applications have been at variance to multiple clearing principles but the permits are granted.

This is a failure in governance to ensure protection of our unique and biodiverse natural environment.

The UBC submits that this proposal is at variance to seven clearing principles and may be at variance to another two. This is a major deviation and is reason consistent with the objectives under the *EP Act* to **protect** the environment and to refuse to grant a Clearing Permit for the Perth Surf Park proposal.

The UBC looks to this precious area being retained and the proposal not being granted a Clearing Permit.

Representatives of the UBC request the opportunity to meet with DWER Regulation Manager and Officers to discuss this clearing application, especially given the fact that 897 members of the public called for this Surf Park proposal to be formally assessed as a PER by the EPA. But the public appeal period for the EPA's decision to 'not assess' is still open and this appeal process should be completed before the proposal can be/is devolved to the Clearing Regulations for a Clearing Permit.

Yours sincerely

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