

24th January 2024

The Appeals Convenor
Office of the Appeals Convenor
Level 22, Forrest Centre,
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PERTH WA 6000

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Dear Appeals Convenor,

Appeal by the Urban Bushland Council WA Inc. against Clearing Permit CPS 9182/1

- **Permit Holder:** City of Albany
- **Location details:** Various properties within Albany, Middleton Beach, Mount Clarence and Port Albany
- **Local Government Authority:** City of Albany
- **Permit Type:** Purpose
- **Clearing purpose:** Constructing a network of trail links within the Albany Heritage Park
- **Size (ha):** 3.16
- **Decision Date:** 04/01/2024
- **Bilateral Agreement:** Yes

Grounds of Appeal

1. The clearing is seriously at variance to Principle (a): - it comprises a high level of biodiversity:

Notably the City of Albany (in the documents provided) admits that the proposal is significantly at variance to this principle. The Albany Heritage Park is very highly biodiverse with:

- 18 native vegetation communities,
- at least 292 flora taxa in 67 families,
- 11 mammal species, and
- 125 bird species and more.

The granite outcrops are **especially significant** and are described by Stephen Hopper (2009) as ‘islands of biodiversity in the Western Australian landscape’.

The presence of so many (18) vegetation communities in one site is outstanding.

Further, the proposed linear clearing will inevitably result in significant disturbance and degradation at each side of the trails and on the downside of slopes. The conditions of required management actions cannot prevent all the likely disturbance and degradation. Thus the clearing of 3.16 ha is a grossly underestimated ‘extent’ of the significant impacts of this proposal on this highly biodiverse landscape.

The clearing for bike trails will still be seriously at variance to principle (a).

On these grounds alone, the permit should not be granted in any modified form, and should be redacted.

2. The proposal with clearing will remain seriously at variance to Principle (b): - it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna.

Despite the management conditions to be applied and the offsets, there will be a net loss of habitat for at least 4 species of endangered fauna:

- the *critically endangered* Western Ringtail Possum,
- the endangered Carnaby's Cockatoo,
- the *vulnerable* Forest Red-tailed Black Cockatoo, and
- the *endangered* Baudin's Cockatoo which notably is also on the IUCN Red List as *Critically Endangered*.

Given the very long extent and zig-zag shape of trails which will fragment and dissect vegetation patches several times, together with loss of habitat trees and shrubs, disturbance and risks (especially to the Western Ringtail Possum, as well as to the Black Cockatoos) will be significant.

Any loss and disturbance of habitat for endangered species is unacceptable. The mitigation hierarchy appropriately applied to this situation is to **avoid** loss and disturbance of habitat. This means the clearing must be avoided. Offsets cannot replace a net loss. Loss of habitat is contrary to Recovery Plans.

Also, the extensive new trails will NOT stop some bikers from going off track and bush bashing. The justification that the new trails will stop current unacceptable behaviour of bush bashing and off track incursions is not valid.

Therefore on these grounds alone, the permit should be withdrawn and not be permitted in the proposed or any modified form.

3. The proposal threatens threatened flora species and is at variance to Principle (c): - it includes, or is necessary for the continued existence of, threatened flora.

Harrington's Spider Orchid (*Caladenia harringtoniae*) grows on the granite outcrops. Trails on or near this rare species will endanger it. Other orchid species and *Stylidium falcatum* are also threatened.

The Albany Heritage Park is a nature conservation area with endangered species present, and the use of the Park for active recreation is contrary to this purpose and is totally unacceptable.

Therefore the proposal for clearing and construction of long bike trails with inevitable significant edge impacts on significant ground level species is totally unacceptable and the Purpose Permit should be withdrawn and not granted in any form.

4. The proposal will cause increased spread of Dieback. This is seriously at variance to Principle (g): - the clearing of the vegetation is likely to cause appreciable land degradation.

There is extensive information in the City of Albany's document '*Phytophthora Dieback occurrence Survey, Albany Heritage Park, 14 August 2018, by Great Southern BIO LOGIC*'. It includes the following.

The spread of Dieback is already unprotectable from existing walking and bike trails, from drainage, and from access tracks. Downslope areas are considered unprotectable from Dieback disease. *Phytophthora cinnamomi* and *P. multivora* are present.

Notably, under current and previous land uses in Albany Heritage Park, none are performed according to prescribed hygiene to limit the spread of disease. Phytophthora is most obvious in the Eucalyptus/Corymbia Woodland, especially on the lower slopes. No hygiene practices are in place now.

On page 10 of the above Dieback report, it says that establishment of protectable areas and application of hygiene to protect them is not possible.

So, this means that with the proposed new trails which extend ~14km in length, Dieback will inevitably spread further and degrade the various vegetation communities. Thus, the clearing and bike trails will cause appreciable land degradation in this very high biodiverse value vegetation. These cumulative impacts are totally unacceptable in this precious and unique Albany Heritage Park.

On these outstandingly serious grounds alone of being seriously at variance to Principle (g), the Purpose Permit should be withdrawn, redacted and not granted in any form.

5. The proposal is seriously at variance with Principle (h): - the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area. The significant impacts on environmental values are edge effects with spread of weeds, Dieback spread, and feral predators.

Edge effects: The proposal is to clear over 14,105 metres (*ie* 14 km) of new trails that are relatively narrow. Because of this extensive linear clearing, the edge effects on at least 5m on each side will be excessive and result in significant disturbance impacts with spread of weeds and plant diseases including Dieback as below. On adjacent downward slopes, the spread of weeds and diseases will be enhanced with erosion from water runoff. Of particular concern are the proposed zig-zag trails on the northern side of Mount Adelaide and on other slopes.

Some cyclists going off track and bush bashing is also likely to occur despite restrictions not allowing this, and this will also aggravate edge damage. These new trails will likely not stop current off-track behaviour as claimed.

Thus the edge effects will be a very significant degrading impact on the surrounding native vegetation.

Dieback spread: As described in Grounds of Appeal no. 4 above, Phytophthora Dieback will inevitably spread and degrade the high quality ecosystems of the Albany Heritage Park. This overwhelming impact will be continuous and uncontrollable over time. On this basis, the land use of biking is contrary to, and destructive of, the conservation and heritage protection purpose of the Albany Heritage Park. This is clearly unacceptable.

Feral predators: The greatly increased length of trails will provide much easier access by foxes and cats (feral and domestic) to enable more predation of wildlife species. Cats are especially serious predators as they hunt many different native fauna species and these may include endangered species. Existing control of cats and foxes is reported to already be inadequate.

On these overwhelming grounds alone, the Purpose Permit should be withdrawn, redacted and not granted in any form.

6. Unacceptable impacts on unique social, cultural and natural values, with conflicts of purpose. Not essential infrastructure.

The social, cultural and natural values of the Albany Heritage Park are assets of national significance.

There is already a history of lack of maintenance of the existing trail network. Bike riders go off-track and in so-doing, disturb soils resulting in weed invasion and spread of diseases including Phytophthora Dieback. Furthermore, bikers speeding along trails used by walkers are a human safety risk. Thus active recreation use (bike riding) is already in conflict with passive recreation use as well as the conservation purpose of the Albany Heritage Park.

Thus the proposed new bike trails will be even more in conflict with the heritage and conservation values and purposes.

Bike trails are not 'essential infrastructure'. It is recommended that the demand for more bike trails be met by locating them on lands that are already cleared of native vegetation, and certainly that are not in any conservation reserves.

On these grounds alone of conflicts of purpose and risks to human safety, the Purpose Permit should be withdrawn and redacted and not approved in any form.

Furthermore, it is strongly recommended that the existing trails should be better managed and only permitted for passive recreation use, with bike riding forbidden.

CONCLUSION

The Purpose Permit is at variance to Clearing Principles (a), (b), (c), (g), and (h).

The 6 grounds of Appeal, each of which is strong reason for the Purpose Permit for 'Constructing a network of trail links within the Albany Heritage Park' to be withdrawn and not granted in any revised form, should be upheld.

Representatives of the Urban Bushland Council request the opportunity to meet with you to discuss these important matters. To arrange a suitable meeting time, please contact our Secretary, Margaret Owen OAM at ubc@bushlandperth.org.au or by direct phone to 0409 927 810.

Yours sincerely

Committee Member
Convenor – UBC Submissions Working Group

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