



Government of Western Australia
Conservation Commission



Our Ref: CON2011/004-1
Enquiries: Ms Carol Shannon, Director
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Hon. Albert Paul Jacob MLA
Minister for Environment; Heritage
Office of the Appeals Convenor
Level 22 Forrest Centre
221 St George's Terrace
Perth WA 6000

Via email: admin@appealsconvenor.wa.gov.au

Dear Minister

APPEAL AGAINST THE CONTENT AND RECOMMENDATIONS OF THE ENVIRONMENTAL PROTECTION AUTHORITY – MANGLES BAY MARINA TOURIST PRECINCT UNDER SECTION 100(1)(d) OF THE ENVIRONMENTAL PROTECTION ACT 1986

The Conservation Commission of Western Australia resolved at its meeting on 13 May 2013 to appeal against the content and recommendations of the Environmental Protection Authority (EPA) on the Mangles Bay Marina Tourist Precinct.

The following grounds of appeal are therefore presented for your consideration through the appeals process under the *Environmental Protection Act 1986*.

Ground of Appeal No. 1 relating to the consideration of the Conservation Commission's submission on the public environmental review document:

The Report and Recommendations of the EPA (Report 1471) on the Mangles Bay Marina-Based Tourist Precinct do not adequately address the Conservation Commission's submission on the public environmental review document, in particular, comments relative to nature conservation values of regional and international importance.

According to the EPA Report, the majority of the land-based proposal area is vegetated, and is located within Bush Forever Site 355 which is vested in the Conservation Commission as part of the Rockingham Lakes Regional Park. Specifically, the EPA Report identified the loss of up to 40 ha /37 ha of Rockingham Lakes Regional Park/Bush Forever Site as one of the proposal characteristics.

Regional parks are areas identified as having regionally significant conservation, landscape and recreational values. They comprise a land management system that provides the opportunity for coordinated planning and management by a number of management agencies and private landowners. The Rockingham Lakes Regional Park has significant conservation value owing to its geomorphic features, the presence of diverse wetland types, habitat, flora and fauna. The Park's location in relation to other conservation reserves enhances its value in a regional context and is also considered by the community to be an important natural remnant in its urban setting. The Park also preserves a remnant of the Rockingham-Becher Plain with landforms and vegetation assemblages that are unique in a global sense and therefore of international importance.

The Conservation Commission recognises the significant changes that this will bring to the area, particularly with ensuing increased urban pressures and further demands on the natural environment.

Ground of Appeal No. 2 relating to conditions 11-12 and 11-15 of the EPA recommended environmental conditions:

The EPA Report stated the following in relation to loss of vegetation on page vii:

This proposal will result in a loss of vegetation from the Bush Forever system and from the Rockingham Lakes Regional Park. However, the EPA accepts that the identification of the land for a marina development has been long standing and predates the establishment of the regional park. In considering the offsets proposed to address the residual impacts, it is further recognised that they are in accordance with the guidance proposed by State Planning Policy 2.8. While the EPA acknowledges it will be difficult to conserve bushland in the local area, the FCTs that will be lost by the proposal have a large geographical range and achieving the offset objective of 'like for like' will still be able to be achieved. The EPA has therefore recommended conditions 11-12 to 11-15 to address the residual impacts to native vegetation with the Rockingham Lakes Regional Park through the development of a rehabilitation plan for 20 ha of land within the vicinity of the proposal, in addition to funding for the acquisition and management of land for conservation purposes.

Whilst the *Rockingham Lakes Regional Park Management Plan 2010* plan provided ancillary context in relation to a possible excision from the Park for the proposed Mangles Bay Marina Tourist Precinct, the purpose of the management plan is to provide the overarching approach for the protection and enhancement of the conservation, recreation and landscape values of Rockingham Lakes Regional Park in accordance with the *Conservation and Land Management Act 1984*. This recognises the need to sustainably manage significant nature conservation and cultural values and allow for an appropriate level of use by the community.

Condition 11-12:

Condition 11-12 of the EPA Report requires a rehabilitation plan to be prepared but without consultation with the Conservation Commission:

11-12 In view of the significant residual impacts and risks as a result of implementation of the proposal to native vegetation within Rockingham Lakes Regional Park, the proponent shall prepare and submit a Rehabilitation Plan to the DEC within 12 months of the commencement of construction.

The objective of the Rehabilitation Plan is to identify and undertake rehabilitation of 20 hectares of native vegetation within Rockingham Lakes Regional Park in the Cape Peron vicinity to the satisfaction of the DEC.

This condition appears to be inconsistent with the Western Australian Government's Environmental Offsets Policy defining environmental offsets as an offsite action or actions to address significant residual environmental impacts of a development or activity. If this condition is not intended to be an offset, then the report and recommendations should clearly articulate that point.

Condition 11-15:

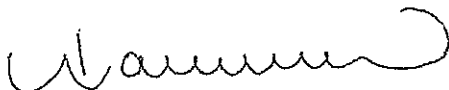
Condition 11-15 of the EPA Report requires the proponent to provide \$450,000 for the acquisition and management of land for conservation purposes.

11-15 The proponent shall provide \$450,000 to the DEC within twelve months of commencement of construction. The purpose of the funding is for the acquisition and management of land for conservation purposes within the Swan Coastal Plain Interim Biogeographic Regionalisation of Australia region.

The above condition does not provide certainty that the area ultimately identified for acquisition will adequately offset the significant residual impacts as a result of this proposal. There is no requirement for the EPA or opportunity given to the Conservation Commission to assess the value of the area that will be acquired for the purpose of conservation. The wording of this condition should therefore articulate that the environmental values of the land acquired should adequately address the impact as a result of the proposal and provide a mechanism for the assessment of values to be undertaken.

Whilst the above grounds of appeal remain unaddressed, the Conservation Commission's view that it does not support the Mangles Bay Marina Based Tourist Precinct as presented in the public environmental review document (February 2012) remains unchanged.

Yours sincerely



Carol Shannon

Director Conservation Commission

13 May 2013

Encl. *Rockingham Lakes Regional Park Management Plan 2010*



Government of Western Australia
Conservation Commission



Our Ref: CON2011004-01
Your Ref: 011/13

Ms Kelly Faulkner
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Dear Ms Faulkner

**APPEAL AGAINST REPORT AND RECOMMENDATIONS - MANGLES BAY
MARINA-BASED TOURIST PRECINCT (REPORT 1471 ASSESSMENT 1846)**

Please be advised that, on reflection, the Conservation Commission of Western Australia has resolved to withdraw its appeal made under Part VII of the *Environmental Protection Act 1986* relating to the Mangles Bay Marina-Based Tourist Precinct, the subject of Environmental Protection Authority report and recommendations no. 1471.

Yours sincerely

Carol Shannon
DIRECTOR

22 May 2013