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SUBMISSION ON EPA CONSULTATION: PROPOSED SMITHS BEACH COASTAL TOURISM VILLAGE, EPA ASSESSMENT 2340

About us

Nature Conservation Margaret River Region (Nature Conservation) is the peak non-profit community-based environmental organisation working on the key environmental challenges facing the southwest of Western Australia.

Nature Conservation has more than 3000 local supporters (including members, donors, active volunteers, businesses and project partners/participants). We advocate for best practice environmental land use and management for the natural environment in our region.

Nature Conservation is listed as a key stakeholder group on page 77 of the Environmental Review Document (ERD), but we have not been contacted by the proponent since 2021 and not engaged in the stakeholder engagement process outlined on pages 77 and 78 of the ERD. We note we specifically asked to be contacted in the submission we made in June 2023 regarding this development proposal.

The information provided in the table on page 99 of the ERD is incorrect regarding our position concerning consultation on above Proposal (the Proposal). We do comment and provide opinion on proposed developments in the region and our reach does extend to the Smith's Beach proposed development area.

NCMRR has a number of significant concerns regarding the proposed development, and consequently does not support approval in its current form. These concerns are set out below and include the following matters:

Context

We take the general view that this type of development does not belong in this sensitive coastal location. Apart from the direct impacts on the development site, there are also impacts resulting from the proposed increased density, consequent impacts on surrounding areas and cumulative impacts with other foreseeable developments.

These additional impacts mean that the full suite of environmental impacts associated with this proposal extends well beyond the development site and will be ongoing into the future as a result of increased visitation to the area well above the anticipated increase in the local planning strategy (as identified within the 2011 Shire of Busselton Development Plan Guide).

We note that the Proposal is required to meet the requirements in both the Commonwealth EPBC Act and the Western Australian Environmental Protection Act 1986 (the EP Act). The Proposal is being assessed by accredited assessment by the WA EPA using the ERD. Importantly the Proposal will need to comply with both the EPBC Act Environmental Offsets Policy 2012 and the WA Environmental Offsets Policy (GoWA 2021).

The site that is the subject of the Proposal is located within the Leeuwin Naturaliste Ridge area, a location highly valued for its natural, 'wildness' values and identified as a priority for conservation. State Planning Policy 6.1 Leeuwin Naturalise Ridge Policy (1998) (SPP 6.1) applies to the subject site and underscores the significance of this area for conservation and the need for careful planning decisions that prioritise the environmental values of the Leeuwin Naturaliste Ridge.

Australia's southwest has been identified as one of 36 global biodiversity hotspots. Biodiversity hotspots are regions with exceptionally high concentrations of endemic species - species found nowhere else on Earth – and are undergoing an exceptional loss of habitat. These areas are critical for global biodiversity conservation due to their unique ecological significance and the extent of loss already sustained (Mittermeier et al., 2011; Myers et al., 2000). As stated, in order to qualify as a global biodiversity hotspot, the region in question must have had significant loss of habitat and that habitat be under threat, which is a key factor in the critical importance of preserving the remaining biodiversity assets in southwest WA.

Climate change is already having a warming and drying impact on our southwest region. Given these threatening processes are already occurring, and the likelihood that the entire hotspot region will become a significant refugia in years to come, it is vital that we take all steps possible to protect and conserve the remaining vegetation and wildlife and protect them from unnecessary harm.

For these reasons, we believe the precautionary principle (Statement of environmental principles, factors, objectives and aims of EIA, Section 3 Environmental Principles, Government of Western Australia, EPA 2023) should be applied in considering the potential environmental impacts that may occur as a result of this proposed project. As the Proposal has been referred DCCEEW as a controlled action to be assessed by the EPA

under the accreditation process, the EPA must have regard to certain matters, including the precautionary principle in accordance with the *Environment Protection Biodiversity and Conservation Act 1999 Cth* (EPBC Act) and relevant case law.

Summary of comments

We take the general view that this type of development does not belong in this sensitive coastal location. Apart from the direct impacts on the development site, there are also impacts resulting from the proposed increased density, consequent impacts on surrounding areas and cumulative impacts with other foreseeable developments. These additional impacts mean that the full suite of environmental impacts associated with this proposal extends well beyond the development site, and will be ongoing into the future as a result of increased visitation to the area well above the anticipated increase in the local planning strategy.

For the reasons summarised below, in our view, this proposal should not be approved.

Impact	**Comment**
Flora and vegetation and biodiversity	Significant land clearing with the full extent not clarified in the ERD. The proposed clearing is of predominantly high-quality native vegetation. Fire risk has not been properly detailed or addressed. Clearing public reserve surrounding the site is inappropriate. The increased risk of wildfire ignition from increased human activity should be addressed.
Coastal processes	No detail of the anticipated impacts likely to result from the annual increase in visitors to this sensitive coastal area. Possible impacts include destruction of the cultural value of the location and a permanent change in the natural environment and the way the coastal forces in the area operate and it could increase beach erosion and possibly have an impact on the marine environment.
Terrestrial fauna	Concerns over protection of threatened species in accordance with EPBC Act requirements and Proposed mitigation hierarchy measures and environmental offsets
Marine waters & groundwater quality	No detail regarding impact on marine waters and inadequate detail regarding impact on fauna and flora habitat in the longer term. Desk top study only was undertaken, based on scarce information.
Social surroundings	Unacceptable visual amenity impacts cause loss of connection to nature for future generations and impact on tourism, particularly the world-renowned Cape to Cape Track.

	Significant visual amenity impacts likely from: • various locations including the Cape to Cape track, • increased signage and fencing to manage dune and foreshore trampling, • future new waste water treatment plant, • clearing of adjacent land for fire management • Seawall Mitigation measures outlined in the ERD cannot mitigate this impact.
Wastewater management	The proposal to treat and dispose all commercial and residential sewage on site. • no environmental impact studies • incomplete site analysis • disposal area required is inadequate.

Flora and vegetation and biodiversity

Native Vegetation Clearing

The Proposal is inconsistent with a number of the requirements in the Shire of Busselton Smiths Beach Development Guide Plan 2011 (DGP), in particular the DGP requires that "remnant vegetation" (i.e. native vegetation remaining once clearing consistent with the revegetation, rehabilitation and landscaping and landscape strategy plan has occurred) on Location 413 that is to be retained in the development is to be protected in perpetuity by covenant or other similar measure which shall be established to the satisfaction of the Shire.

The ERD Executive Summary (page 8) states that the Proposal will result in permanent loss of up to 9.27 ha of native vegetation which will be subject to full clearing and modification of up to 10.68 ha of native vegetation which will be subject to partial modification. The Proposal will also impact to up to 6.84 ha PEC WA PEC 'Coastal granitic shrublands and herblands of the exposed western and southern sides of the Leeuwin Block major landform' of which 3.15 ha will be fully cleared and 3.69 ha will be subject to partial modification.

We also note that the proposed development size will involve significant land clearing required to meet the building and bushfire requirements in implementing the Bushfire Management Plan.

Nature Conservation is opposed to the extensive clearing of "excellent", "very good", "very good- good" and "good" condition remnant vegetation" as proposed for the development.

Significant degradation of a significant area of remnant vegetation will occur due to a combination of the following:

- direct clearing for housing and infrastructure,
- clearing for Asset Protection Zones,
- thinning and modification for Fire Risk Reduction,
- the inevitable introduction of environmental weeds, pests and disease and
- the continual irrigation of these areas with treated wastewater and the massive change to ecosystems adapted to our mediterranean climate by the addition of summer water.

The ERD Executive Summary on page 10 also states that "through the implementation of the EPA's mitigation hierarchy, the residual impacts of the Proposal to flora and vegetation are as low as reasonably practicable and are not expected to be significant. Given the above it is considered that the EPA's objective for flora and vegetation will be met".

The mitigation hierarchy measures proposed to address this seem to largely rely on an Offsets Package (Section 15.1 of the ERD and Offsets Strategy Appendix DD) using three "anticipated" offset sites in the area managed by DBCA, but which is lacking in detail and certainty and the analysis of which has not been completed or approved by DBCA. We therefore consider that what is proposed cannot mitigate the effects of permanent and partial clearing and is not compliant with State or Commonwealth government offsets requirements.

In particular, the proposal has been determined to be a controlled action under the EPBC Act (EPBC 2021/9141) as it is considered likely to have a significant impact on the Giant spider orchid (*Caladenia excelsa*) – Endangered species of NMES. The ERD Executive Summary (page 8) also states that there will be permanent loss of up to 187 individuals of *Banksia sessilis var. cordata* and permanent loss of up to 12 Caladenia sp. The ERD does not address how the offset sites will be used to offset the loss of these flora species.

National Park additions

It is appropriate that, as part of any Proposal for this location, areas of good quality undeveloped vegetation should be ceded to the Conservation Commission for inclusion in the National Park. This will ensure appropriate and integrated management with existing areas of National Park and will remove any expectation of further development in the future.

In the Proposal, the areas put forward to be ceded as National Park total 15.82ha. However, in our view this area is insufficient in the context of the proposal, and the Proposal extends development into areas that should be ceded, and also leaves high quality vegetation vulnerable to future clearing or development.

There is considerable additional high quality native vegetation that should be retained and ceded as National Park. This was also identified by the EPA in its 2009 Strategic Assessment (EPA 2009 Report),

In our view, the land area to be ceded free of cost as National Park should exceed 19ha and should be selected for its quality and with the aim of avoiding fragmentation of the natural landscape as much as possible. The Proposal does not achieve these aims and makes inadequate provision for land area to be conserved by becoming National Park.

Fire Risk

The ERD sets out that the Proposal is non-compliant with a number of material bushfire regulatory requirements and application (page 9 of Appendix J Bushfire Management Plan) deviating from Acceptable Solutions in State Planning Policy 3.7. It appears that the key response to the non-compliance elements is the construction of a "Community Bushfire Refuge" and "Vegetation Modification Treatments (VMT)".

The VMT appear to involve high level modification to Asset Protection Zones and a "bespoke vegetation modification approach" that is not clearly described in the ERD and which seeks "to eventually incorporate traditional indigenous vegetation management practices into the ongoing vegetation management strategy. Initial review shows it could present targeted fuel load reduction with a lighter environmental impact. however further studies are required to assess further (see Appendix D)". This approach is not clearly defined and has not been assessed in the ERD. The ERD provides no confidence that the Proposal will achieve compliance with bushfire requirements.

It is noted that the Bushfire Management Plan also involves clearing and fuel reduction beyond the site boundary to the South. We believe that fuel reduction should not extend beyond the private lot. Relying on adjoining parcels of public land with significant biodiversity values sets a dangerous precedent.

Nature Conservation is strongly opposed to the clearing and associated habitat and biodiversity loss in areas that should be ceded to and adjacent to the National Park. It is noted that the requirements around the extent and nature of clearing for Asset Protection Zones and Fire mitigation have increased significantly over recent years and it is highly likely that this will continue to increase given the significant drying and warming predicted for the South West.

We also note that the proposal will result in a significantly increased visitation to the Smiths Beach area. This will result in increased human activity and a consequent increase in the risk of fire ignition occurring and leading to a coastal wildfire (Collins et al., 2015). This perpetual increased risk has not been addressed by the Proponent. In our view this is a real and significant risk and should be properly addressed in the ERD.

In summary, we submit that the ERD does not demonstrate that the Proposal is currently compliant with legislated fire management requirements. The information contained in the ERD is not sufficient and lacks clarity around what is achievable for fire management and fire risk mitigation and the impact on native vegetation. The EPA should ensure that the Proponent takes responsibility for the ongoing protection of the environment in relation to this proposal. This is not evident in the ERD in relation to the fire risk.

Coastal processes

The granite coastal area within and surrounding the Proposal is particularly fragile, as well as having short range endemics.

No detail is provided in the ERD of the anticipated impacts likely to result from the annual increase in visitors to this sensitive coastal area.

Possible impacts of increased visitation include destruction of the cultural value of the location and a permanent change in the natural environment and the way the coastal forces in the area operate and it could increase beach erosion and is likely to impact the marine environment.

The large increase in visitation and permanent residents will have 'flow on' associated impacts on the delicate coastal zone, including coastal heath, granite vegetation, beach / sand dunes and intertidal zones. This is increasingly being understood as critical in ecosystem function and long-term ecosystem sustainability.

The proposal will have significant impacts on visual amenity especially from the Smiths beach beachfront, the Cape to Cape track and the entire coastline north of Smiths Beach. The seawall (referred to in the ERD as a Universal Access ramp and associated infrastructure) will be seen from the beach, from the water, from the Cape to Cape track, torpedo rocks and many other significant public viewing points.

Furthermore, as is currently experienced along the Capes coast it is highly likely that individual property owners will undertake additional clearing of native vegetation in order to optimise coastal 'amenity' views. It is unclear within the ERD how this is to be managed or addressed.

Seawall

The 'seawall' proposed along the western end of Smiths Beach is not considered in the ERD.

A number of concerns exist in relation to this aspect of the proposal:

- The proposed seawall is likely to have a significant impact on coastal processes including sand and seaweed movement with potential impacts along the whole of Smiths beach.
- This structure is proposed within public UCL foreshore further increasing the impact of the proposal outside of the private Lot boundary.
- It significantly alters the visual nature of one of the region's iconic beaches.

There is no consideration in the ERD of the impact of the seawall on these matters and in particular no consideration on the potential impact of the seawall on coastal processes and sand movement.

Terrestrial fauna

We note that the proposed development has been determined to be a controlled action under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and will require assessment and approval under the EPBC Act before it can proceed. The relevant controlling provisions are sections 18 and 18A – listed threatened species and communities – which are matters of national environmental significance (MNES).

The proposal has been determined to be a controlled action under the EPBC Act (EPBC 2021/9141) as it is considered likely to have a significant impact on the following fauna which a are MNES:

- Western ringtail possum (*Pseudocheius occidentalis*) – Critically Endangered;
- Baudin's black cockatoo (*Zanda baudinii*) – Endangered;
- Carnaby's black cockatoo (*Zanda latirostris*)- Endangered;
- Forest red-tailed black cockatoo (*Calyptorhynchus banksii naso*) -Vulnerable; and
- Chuditch (*Dasyurus geoffroii*) -Vulnerable.

There is information in the ERD that confirms the permanent impact on these species. The habitat loss due to the Proposal will be permanent and irreversible, regardless of management measures taken to protect fauna during the construction phase such as possum ropes. The mitigation hierarchy measures outlined in the ERD are reliant on yet to be approved offset sites.

Impacts to subterranean fauna

The ERD Executive Summary states that the Proposal does not involve large-scale ground excavation, nor groundwater abstraction and therefore direct impacts to subterranean fauna are not considered likely, noting that no karstic features, such as sinkholes or caverns, have been identified within the Development Envelope.

Indirect impacts to subterranean fauna may include:

- Changes to existing surface water flow paths which may limit the amount of groundwater replenishment and therefore reduce the quality of habitat for any stygofauna present;

- Changes in groundwater quality through contamination of surface water and groundwater during construction could result in the loss of habitat for stygofauna; and o Impacts to habitat may also be caused by changes to groundwater from the use of treated wastewater for irrigation.

- Troglofauna may be indirectly impacted through reduction in available energy source (carbon) from the removal of vegetation.

However, it is considered in the ERD Executive Summary (page 15) that the likelihood of significant subterranean fauna communities within the Development Envelope is considered to be low as the area does not support karst/caves systems such as those found to the north and south of the Proposal within the Tamala Limestone. Extensive groundwater aquifers were not identified, and subsurface conditions were primarily sandy and not conducive to troglofaunal.

The concern is that the proponents are relying on assumptions through undertaking a desktop study only, with potentially ineffective mechanisms in place to prevent harm to subterranean fauna if they are encountered during construction without further consideration being given to this issue.

Although inconspicuous, subterranean fauna contributes markedly to the overall biodiversity of Australia and we consider that further consideration should be given particularly as protection of subterranean fauna so that biological diversity and ecological integrity are maintained is an EPA EIA objective (EPA (2023c) Statement of Environmental Principles, Factors, Objectives and Aims of the EIA).

A Subterranean Fauna Desktop Assessment is at Appendix S of the ERD. We note that n summary it states that:

> *"Based on the database and literature search, no subterranean fauna species is known from the Project area and there are no records of subterranean species from the general landscape matrix in the search area, although this may reflect lack of sampling. While no subterranean species are known from the Project area and available information on geology and hydrogeology suggests that habitat is not prospective for either stygofauna or troglofauna species, the information habitat is incomplete. LiDAR should be used to confirm that no caves are present and the potential for perched aquifers to yield stygofauna should be investigated further".*

This supports our position that further investigation is required and that the Proposal should not be approved unless all EPA EIA objectives can be met.

Marine waters and groundwater quality

A desktop assessment was undertaken to determine the baseline marine environmental quality values within a local and regional context to the Development Envelope (page 56, Part 2 of the ERD). As described in Section 11.3.2, the Development Envelope is adjacent to the Smiths Beach marine environment which is located within the Ngari Capes Marine Park. Details of the existing water quality are scarce and it is stated in the ERD that it was not possible to develop a baseline value for nutrient concentrations in the marine environment surrounding Smiths Beach.

The study considers there will potentially be a number of indirect impacts to marine environmental quality through surface water runoff. Groundwater maybe impacted through infiltration of soil and surface water runoff which may end up in the marine environment.

The only cumulative impact given consideration is irrigated wastewater and it is not considered likely to have a significant impact (page 60, Part 2 of the ERD).

The impact of the construction of the seawall and potential resulting changes to the marine environment has been given no consideration in this section of the ERD.

While a number of mitigation measures are outlined in the ERD, overall, we consider that insufficient data and analysis is available in the ERD and insufficient consideration has been given to determine any secondary or significant impacts to the marine environment from the Proposal, potentially risking the long-term health of the environment and people.

Social surroundings

We have concerns that the Proposal will cause a permanent loss of natural visual amenity values and sense of place that foster an important connection to nature and are an important value to the local community. Connection to nature is becoming increasingly significant and the Leeuwin Naturaliste ridge area offers unique opportunities for this to occur. These nature connection values are important to maintain and enhance, for future generations.

Importantly, the Cape to Cape Track is a sought-after wilderness experience, with most walkers walking the track in a southerly direction, from north to south (see https://www.capetocapetrack.com.au/track-facts). This means the views of the proposed development from the north will have the most impact on users of the Cape to Cape Track. The Proposal clearly shows that the development will be "in full view" of people walking in a southerly direction along the Cape to Cape Track, for a considerable section of the Cape the Cape Track. (See ERD, Appendix CC, pages 63 – 91). Oddly, we were unable to discern any mention of the proposed Seawall in any of the Visual Impact photographs. There is mention of buildings that will be visible, but not the Seawall. We consider this to be a serious omission in the visual impact report at Appendix CC.

In our view, the impacts on visual amenity from the north are unacceptable as they will create a view of buildings for a considerable length of the Cape to Cape Track, which walkers use to experience wilderness qualities in the region. We also consider that the visual amenity impacts have been understated in the Proposal as they omit to mention the Seawall.

We note that a prior EPA assessment of a strategic proposal for this area (EPA 2009 Report https://www.epa.wa.gov.au/sites/default/files/EPA_Report/Report1318SmithsBeachSEA20409.pdf) stated similar concerns regarding visual amenity:

> The EPA considers that the development to the full extent of the "developable area" identified by the proponent would not meet the EPA's objective for "landscape and visual amenity". The EPA considers the modeled views of the area from the north (from Torpedo Rocks / Yallingup) to be of most concern and that the views show an unacceptable visual impact on the headland and on the upper slopes of the development site." (EPA 2009 Report, p19)

We believe the same considerations apply to the present Proposal.

Wastewater Management

Nature Conservation has significant concerns regarding the handling of waste water and sewage from the development, and the associated impacts on native vegetation areas earmarked for disposal.

We consider that the disposing of all sewage onsite will result in:

- Increased land clearing for the physical infrastructure for the equipment and disposal area
- Pollution of the existing ground water
- Permanent change in soil composition
- Increased loss of native vegetation and increased growth of introduced/weed species

Onsite sewage disposal is a complete departure from the 2009 EPA approval. The ERD Engineering Report notes that a design for the sewage system is not completed (Appendix R, page 8).

We consider that proposed disposal of treated wastewater to bushland areas will result in significant changes to the ecology of the bushland that is adapted and to our mediterranean climate and low nutrient environments. This aspect of the proposal is likely to significantly change vegetation communities, degrade vegetation condition and habitat values and encourage and promote environmental weeds.

This significant impact proposed for significant portions of the remaining remnant vegetation is not adequately addressed within the ERD as a direct effect of the proposal as it currently stands.

Please feel free to contact our organisation with any questions in relation to this submission.

Regards

Drew McKenzie
General Manager
Nature Conservation Margaret River Region

10 February 2025

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