



**Appeals Committee for CPS 4100/1
Environmental Protection Act 1986**

**REPORT TO THE
MINISTER FOR ENVIRONMENT**

APPEAL AGAINST DECISION TO GRANT CLEARING PERMIT CPS 4100/1

**LOT 3000 ON DEPOSITED PLAN 44636 (HARTFIELD PARK CROWN
RESERVE 17098, FORRESTFIELD), SHIRE OF KALAMUNDA**

APPLICANT: SHIRE OF KALAMUNDA

Appeal number C010 of 2012

November 2012

Appeal summary

An appeal was lodged by the Nature Reserves Preservation Group, Inc. (appellant) in objection to the Department of Environment and Conservation's (DEC) decision to grant clearing permit CPS 4100/1 to the Shire of Kalamunda (the applicant). The clearing permit authorises 1.88 ha of native vegetation to be cleared for the purpose of developing recreational facilities, located within Bush Forever Site 320.

Appeal grounds

Broadly the appellant objected to the proposed clearing based on the local and regional environmental values of the vegetation in the Bush Forever site, which the appellant considered has been allowed to degrade to a condition considered appropriate for clearing. Furthermore, the appellant questioned the appropriateness of offsetting clearing within a Bush Forever site, with another Bush Forever site.

Key findings

The Hartfield Park Sport and Recreation Facilities Master Plan 2010 (Master Plan) assumed that clearing around Morrison Oval would not be permitted by the DEC and alternative sites for playing fields were identified. The applicant advised that all the alternatives presented in the Master Plan are currently being explored due to demands for playing fields in the Shire of Kalamunda. In addition, the applicant had confirmed that there was groundwater availability and that in this regard there was an error in the Master Plan.

Through the appeal investigation the applicant supplied more recent vegetation and fauna surveys for the application area, which had not been previously provided to the DEC as part of the clearing application. When comparing the information in the recent surveys to the Hartfield Park Management Plan 1997, it is evident that the vegetation condition in areas of Hartfield Park has deteriorated over time, including the application area.

The recent surveys suggested the potential for a threatened ecological community and noted the vegetation values of the site as recognised through Bush Forever Site 320, recommending further work be undertaken. The application area also has good tree cover in the northwest corner providing foraging habitat for conservation significant black cockatoo species.

Taking the above into account, it is considered that the values of the vegetation, combined with the planning context, merit reconsideration of the decision to grant the permit. It is recommended that the appeal be allowed, and the permit revoked, giving the Shire of Kalamunda the opportunity to conduct further work as recommended in the recent survey and allow further exploration of other options for providing recreational facilities within the area, updating the information in the Master Plan. The Shire of Kalamunda will need to consider its obligations to refer the proposal under the *Environment Protection and Biodiversity Conservation Act 1999*.

Additionally, it is noted that the Hartfield Park Management Plan has not been updated since 1997; given the declining quality of vegetation within the site, it is recommended that the Shire of Kalamunda update the Plan to ensure the ongoing protection of the environmental values of the site.

Recommendation

After considering the issues raised by the appeal and the advice of the DEC and the applicant, it is recommended that the appeal be allowed and the clearing permit not be granted.

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	1
APPEAL PROCESS.....	4
OUTCOMES SOUGHT.....	5
GROUND OF APPEAL.....	5
GROUND 1 – IMPACTS TO BIODIVERSITY VALUES	6
GROUND 2 – BUSH FOREVER AND REMNANT VEGETATION IMPACTS	8
GROUND 3 – ALTERNATIVES AND OFFSETS.....	7
ADDITIONAL DEC ADVICE.....	9
CONSIDERATION.....	10
CONCLUSION AND RECOMMENDATION	16

INTRODUCTION

This report relates to an appeal by the Nature Reserves Preservation Group, Inc. (the appellant) in objection to the decision of the Department of Environment and Conservation (DEC) to grant clearing permit CPS 4100/1 (clearing permit). The clearing permit authorises the Shire of Kalamunda (the applicant) to clear 1.88 hectares (ha) of native vegetation within Lot 3000 on Deposited Plan 44636 (Hartfield Park, Crown Reserve 17098, Forrestfield), Shire of Kalamunda, for the purpose of upgrading existing recreation facilities.

Due to the new Appeals Convenor having previous involvement in this matter, the Minister for Environment appointed Mr Jean-Pierre Clement and Dr Lorna Davies (both of the Office of the Appeals Convenor) as an Appeals Committee for this appeal. This report provides the Appeals Committee's recommendations to the Minister for Environment in respect to the appeal, and is given under section 109(3) of the *Environmental Protection Act 1986* (EP Act).

BACKGROUND

The following background has been extracted from the DEC's report to the Minister in relation to the appeals.

On 3 December 2010, the DEC received an application from the applicant to clear 1.88 ha of native vegetation in Lot 3000 on Deposited Plan 44636 (Hartfield Park, Crown Reserve 17098, Forrestfield), Shire of Kalamunda, for the purpose of developing a sporting field. Figure 1 shows the current layout of Hartfield Park and Figure 2 shows the proposed layout of Hartfield Park.

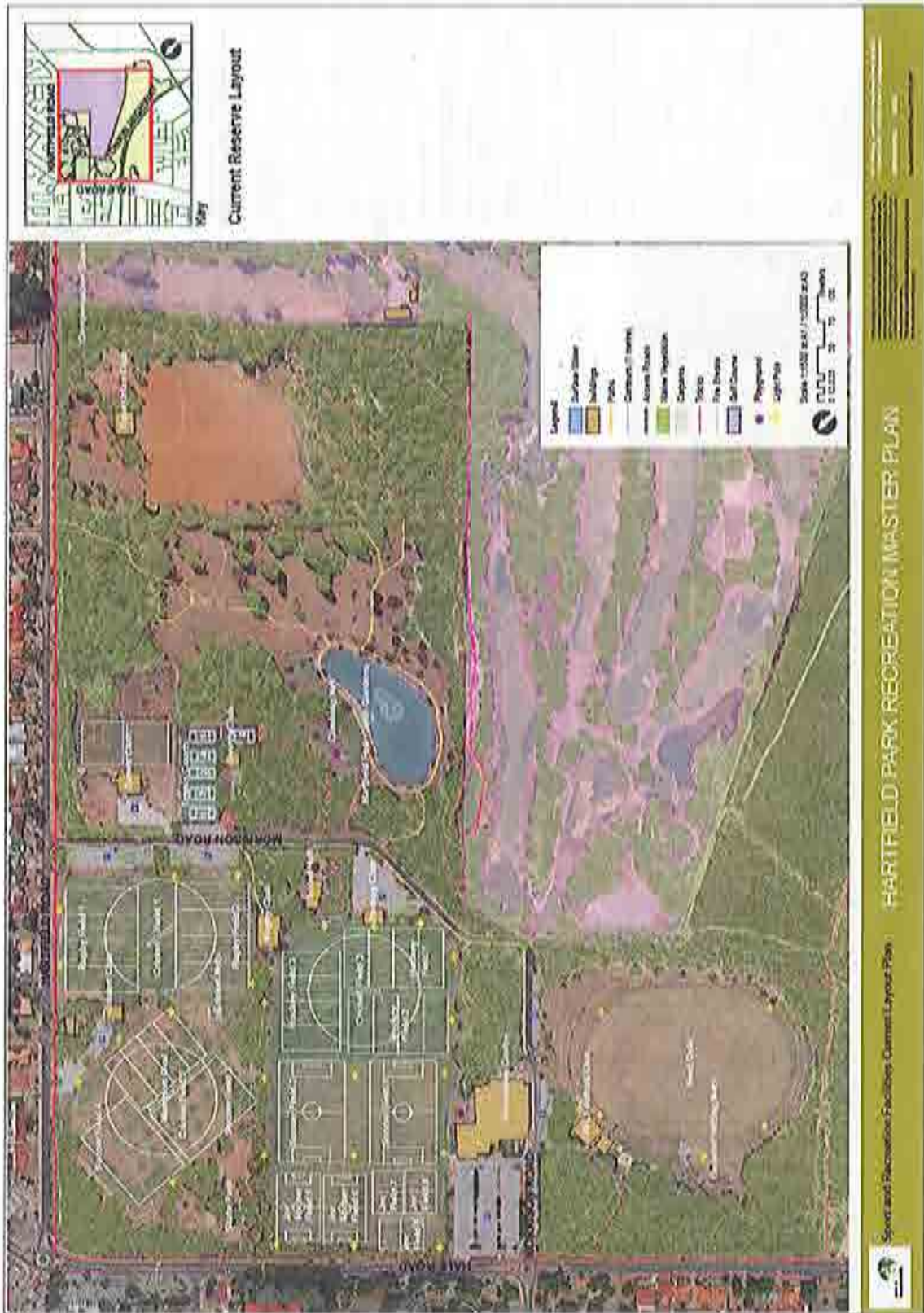
During the assessment of application CPS 4100/1, a site inspection was carried out on 15 December 2010 by DEC officers and a site inspection report prepared. The DEC's preliminary assessment of application CPS 4100/1 identified that the proposed clearing was at variance to clearing principle (h) contained in Schedule 5 of the EP Act, which provides that native vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area.

Under section 51O(4) of the EP Act, '...the CEO shall have regard to any planning instrument, or other matter, that the CEO considers relevant'. Planning and other matters relevant in the DEC's assessment of application CPS 4100/1 included the applicant's Hartfield Park Sport and Recreation Facilities Master Plan 2010 (Shire of Kalamunda, 2010) (Master Plan), which showed the groundwater as being fully allocated.

The DEC's preliminary assessment of application CPS 4100/1, which included these findings, was sent to the applicant on 2 February 2011. The applicant provided a submission to the DEC on 28 February 2011, advising that the Western Australian Planning Commission had been provided a copy of the approved Master Plan, which recommended that all facility developments, including the relocation of the equestrian grounds, the environmental study of Pioneer Park, and the proposed clearing are necessary to achieve the objectives of the Master Plan. An additional submission by the applicant was received by the DEC on 17 March 2011, advising that the proposed sporting field could be irrigated within the constraints of the pre-existing licences to extract groundwater.

The DEC advised the applicant on 23 March 2011 that an offset was required to mitigate the potential impacts of the proposed clearing. The applicant provided the DEC with an offset proposal 'Poison Gully West Offset Project 2012' on 20 June 2012, which included weed management and rehabilitation measures over 4.04 ha on Crown Reserves 40228 and 36492.

Figure 1: Location and current layout (source: Shire of Kalamunda, 2010)



Clearing permit CPS 4100/1 was granted on 28 June 2012 with conditions requiring the permit holder to implement and adhere to the approved offset, and to undertake dieback and weed control measures. The decision to grant clearing permit CPS 4100/1 was advertised in *The West Australian* newspaper on 2 July 2012 and it is against this decision that the appellant submitted the appeal. Figure 3 shows the area approved to be cleared.

Figure 3: Clearing area (Source DEC, 2012)

Plan 4100/1



APPEAL PROCESS

Pursuant to section 106 of the EP Act, a report was obtained from the DEC on the matters raised in the appeal. The Appeals Committee discussed the appeal with the appellant, the

applicant and conducted a site visit. In addition the Appeals Committee held discussions with the DEC and the Department of Planning (DoP).

The environmental appeals process is a merits based process. The investigation of appeals in objection to the grant, or to the conditions, of a clearing permit normally considers the environmental merits of the assessment by the decision maker based on principles as set in Schedule 5 of the EP Act as well as other factors. Questions of additional information not considered by the decision maker, technical errors and attainment of relevant policy objectives are normally central to appeals.

OUTCOMES SOUGHT

The appellant requested that the clearing permit be refused and alternative locations for the sporting fields be pursued.

GROUND OF APPEAL

In support of the view that the clearing permit should not be granted, the appellant raised a number of concerns which have been summarised as follows:

- Ground 1: Impacts to biodiversity values;
- Ground 2: Bush Forever and remnant vegetation impacts; and
- Ground 3: Alternatives and offsets.

GROUND 1 – IMPACTS TO BIODIVERSITY VALUES

Under this appeal ground the appellant considered that pockets of remnant vegetation serve as vital elements of linkages, greenways and wildlife corridors and serve to enhance the local biodiversity. The appellant asserted that assessment of the value of such areas frequently fails to acknowledge the value to bird and insect life.

Despite degradation and absence of declared rare flora (DRF) in this area, the appellant advised that the survey found the nearby (< 300 metres) scout area to be of 'very good quality' and to contain DRF. In this regard, the appellant stated that the scout area is currently linked with the target area through the remnant vegetation on the south west side of Morrison Oval. Therefore should the clearing go ahead, the appellant considered that it will leave this 'very good quality' DRF pocket totally exposed on this side, to its detriment.

In support of the above, the appellant also raised following points, referring to quotes in Shire of Kalamunda (2010):

- 'Hartfield Park is classified Bush Forever and has a high conservation priority. It also has significant Indigenous heritage.' (Shire of Kalamunda, 2010 (page 1)); and
- 'Hartfield Park Reserve is approximately 170 ha in size of which a large portion is natural vegetation with very high ecological value.' (Shire of Kalamunda, 2010 (page 24)).

DEC advice

In considering application CPS 4100/1, the DEC advised that it had regard to the clearing principles listed under Schedule 5 of the EP Act and, in accordance with section 51O of the EP Act, planning and other relevant matters.

The DEC stated that no DRF or priority flora were identified by the DEC or the applicant's environmental consultant (Bennett Environmental Consulting, 2009) in the area subject to application CPS 4100/1. The DEC advised that the vegetation proposed to be cleared is in a degraded to completely degraded (Keighery, 1994) condition. The DEC's assessment found that the clearing will not disrupt connectivity of nearby DRF populations from remnant vegetation in Hartfield Park due to the clearing being in a disjunct area in the northwest

corner. The DEC considered that the environmental value is limited due to the vegetation being in a degraded to completely degraded condition (Keighery, 1994).

Applicant response

In response to the appeal ground the applicant advised that the area proposed clearing area is not adjacent to the Scout Hall, which is approximately 300 metres from the proposed clearing area at Morrison Oval (see Figure 1).

The applicant advised that the proposed clearing area would not increase the isolation of the remnant vegetation located in the Scout Hall area and there is not a functional ecological linkage between the Scout Hall area vegetation and the proposed clearing area, which has only isolated trees and no understory.

GROUND 2 – BUSH FOREVER AND REMNANT VEGETATION IMPACTS

The appellant advised that within the Shire of Kalamunda there are Bush Forever sites which, through neglect are becoming increasingly degraded. However, even in their degraded state the appellant asserted that they still serve as linkages, greenways and wildlife corridors (see Appeal Ground 1) and preserve much of their natural biodiversity. The appellant considered that clearing such areas results in loss of the last vestiges of that biodiversity. Furthermore the appellant contended that through such clearing, areas of remnant vegetation are becoming increasingly isolated, which in many cases leads to increasing extinction of biodiversity.

The appellant also considered that the creation of new sporting field areas places added pressure on the Shire of Kalamunda to provide a new source of water, which the appellant asserted is a significant problem given declining rainfall and increasing pressure on groundwater resources.

In support of the above, the appellant also referred to the following quotes from the Master Plan:

- 'The current ground water licence for Hartfield Park is fully allocated. Should the Shire decide to increase the amount of irrigated turf there will be a need to identify a new source of water for Hartfield Park that is sustainable in the long term, cost effective and is practical to implement.' (Shire of Kalamunda, 2010 (page 6)); and
- 'Most importantly, if permission is granted for clearing, the Shire will need to acquire a new sustainable water source for irrigating the additional fields as the current ground water licence for Hartfield Park is fully allocated.' (Shire of Kalamunda, 2010 (page 40)).

DEC advice

In response, the DEC advised that its decision report for CPS 4100/1 acknowledged that the vegetation to be cleared occurs in Bush Forever Site 320 (Hartfield Park) and to mitigate the impact to the environmental values of this conservation area, conditions have been imposed on permit CPS 4100/1. The DEC stated that the conditions require the permit holder to conduct dieback and weed management at the clearing site, and to implement and adhere to an offset committing to rehabilitate and manage weeds within 4.04 ha of native vegetation at Bush Forever Site 45 at Poison Gully West.

The DEC's assessment of application CPS 4100/1 identified that the vegetation proposed to be cleared was isolated in the north west corner of Hartfield Park, and was in a degraded to completely degraded condition (Keighery, 1994) and of limited environmental value.

During DEC's assessment of application CPS 4100/1, the applicant advised the DEC that the current groundwater licence for Hartfield Park is not fully allocated and, therefore, groundwater is available to irrigate the proposed sporting field.

Applicant response

In response to the appellant's concerns regarding water sources, the applicant advised that the Master Plan recognised the need to identify an alternative water source to facilitate future field development.

Since this time, the applicant stated that it has developed a concept plan to obtain water from the nearby Woodlupine main drain and transfer it back into the superficial aquifer system and Rockwater Hydrologists have been engaged to assist in assessing the feasibility of the project and concept plan.

The applicant further advised that discussions have been held with the Department of Water and the Water Corporation, where both government bodies were stated to be very supportive of the proposal and Water Corporation provided in-principle support to obtain water from its drain.

In terms of the Shire of Kalamunda's current water allocation within the Forrestfield Sub District, the applicant advised that there is allocation to water 21 ha of recreation area and due to the recent reduction in passive irrigated areas at the site, there is enough water on the current allocation, to supply and service a now playing field of approximately 1.8 ha. Therefore the applicant concluded that it has sufficient capacity within the current allocation to maintain the additional fields.

GROUND 3 – ALTERNATIVES AND OFFSETS

Pioneer Park and the Equestrian Grounds

The appellant advised that the Hartfield Park Management Plan (1997), prepared by the Eastern Metropolitan Regional Council in association with the Shire of Kalamunda, highlighted the environmental sensitivity of Hartfield Park and recommended (under 1.5 Ultimate Development Plan) that no new sporting fields be constructed in areas containing existing bushland. Furthermore, the appellant highlighted that it recommended the Dawson Avenue landfill site (Pioneer Park) be regarded as a first priority for sporting field planning for the area.

The appellant also referred to the Master Plan (page 41):

A more viable option at Hartfield Park for acquiring additional sporting field area would appear to be the conversion of the equestrian grounds to sporting fields... This would necessitate the relocation of the Darling Range Horse and Pony Club to a suitable venue, and require additional water supply for the irrigation of the increased turf area.

Offsets

The appellant referred to the offset proposal (Bush Forever site 45 Poison Gully West) offered by the Shire of Kalamunda and deemed a suitable location by the DoP, which caused the appellant to question the practical value of such offsets. The appellant considered that the responsible authority should, as a matter of course, budget for maintenance of such sites. Furthermore the appellant rejected the principle of Bush Forever sites being used as offsets against vegetation clearing of other Bush Forever sites.

The appellant stated that it has been campaigning to retain natural vegetation within the Shire of Kalamunda for over 20 years, where Bush Forever sites have been allowed to degrade beyond the point of rehabilitation and therefore considered suitable for development. The appellant highlighted that Keighery and Trudgen (1992) identified Hartfield Park as an area of 'high conservation value', in contrast with the Bennett Environmental Consulting report (2009). While still finding areas in very good condition and worthy of conservation, this report found the Morrison Oval bushland 'degraded' to 'completely degraded.'

In support of the above, the appellant also raised following points:

- The State Strategic Policy Section of the DoP does not support the proposed clearing and considers the use of the equestrian grounds for sporting fields to be a more appropriate action as outlined in the Master Plan. Additionally, the Bush Forever Policy aims to protect regionally significant native vegetation and has the key principle to avoid, minimise and, lastly, mitigate any necessary clearing within a Bush Forever area (DoP, 2011);
- In its submission on Town Planning Scheme 3 in June 2005, the appellant stressed the need for protection of areas such as this in the context of their value as wildlife corridors, greenways and natural areas linkages. *'The NRPB supports the orderly taking of management vestings of reserves for inclusion into the District Conservation Reserve System and Wildlife Corridors...key areas where this needs to occur include, the natural areas and key wildlife corridor sections of Hartfield Park, Maida Vale Reserve, Ridge Hill Rd and Kadina Brook Reserves ...'*
- As part of the recreation facilities Master Plan process, the Shire of Kalamunda engaged consultants to undertake an environmental review of Hartfield Park. This report highlights the environmental and cultural sensitivity of Hartfield Park, its classification as Bush Forever, declared and threatened rare flora, endangered floristic communities and Indigenous cultural significance (containing within its bounds a scar tree site). The park was formerly known as Maamba Reserve and was used as an Aboriginal camping site at the turn of the last century. The key finding from this report is that the potential for further clearing of bushland for additional sport and recreation facilities appears to be limited.

DEC advice

Pioneer Park and the Equestrian Grounds

The DEC noted advice from the applicant that all facility developments recommended in the Master Plan, including: relocating the equestrian grounds; conducting an environmental needs study at Pioneer Park; and the clearing of the bushland area on the corner of Hale and Hartfield Roads (application CPS 4100/1), are necessary in order to achieve the objectives of the Master Plan. The DEC noted that the Master Plan alternatives included developing the equestrian grounds for sporting fields as opposed to extending current sporting fields in Hartfield Park.

The DEC advised that the Chief Executive Officer (CEO) does not have discretion to make a decision based on the potential merits of alternative areas of clearing. In the case of permit CPS 4100/1, the DEC advised that the CEO determined that the identified impacts could be managed by imposing conditions, which included requiring the applicant to implement an agreed offset.

During DEC's assessment of application CPS 4100/1, the applicant advised the DEC that the current groundwater licence for Hartfield Park was not fully allocated and that groundwater was available for the expansion of the sporting field at Hartfield Park.

Offsets

The DEC acknowledged that Bush Forever identifies areas of regionally significant bushland and recommends how these areas should be conserved and managed. The DEC stated that Bush Forever is a decision-making tool aimed at providing a framework for management of the land by landowners, the community, local government and State Government agencies. The DEC advised that this proposal will impact on regionally significant bushland in Bush Forever Site 320 Hartfield Park, however, in this instance the CEO determined that the identified impacts could be managed through imposing permit conditions, including a targeted offset.

The DEC's assessment of application CPS 4100/1 identified that the clearing would not disrupt connectivity of nearby remnant vegetation or impact on wildlife corridors due to its location in the north west corner of Hartfield Park, with the degraded to completely degraded condition (Keighery, 1994) of the vegetation representing limited environmental value.

The DEC considered that the weed management and rehabilitation of 4.04 ha of Bush Forever Site 45 at Poison Gully West, in the approved offset project for permit CPS 4100/1, is adequate in achieving a positive environmental outcome for the clearing.

Applicant response

Pioneer Park and the Equestrian Grounds

The applicant advised that the Master Plan replaces the Hartfield Park Management Plan 1996. The applicant further advised that the Master Plan identifies both Hartfield Park and Pioneer Park to be the most logical locations for additional sporting field space. As Pioneer Park is built over a former landfill site, the applicant advised that this site has significant issues including subsidence, poor turf quality and poor drainage. The applicant advised that it has recently engaged environmental consultants to undertake a geotechnical survey of Pioneer Park, which will provide further direction regarding the future of Pioneer Park and the appropriate course of action. At this stage, the applicant advised that preliminary results suggest that Pioneer Park may not be a viable option for further development.

The applicant advised that the Master Plan recommends the conversion of both the equestrian site and the Morrison Oval site as potential locations for field expansion. Given the lack of other development options across the Shire of Kalamunda for public open space, the applicant considered that both developments are necessary. The applicant stated that it is currently in the process of consulting with equestrian user groups as part of a relocation strategy for the Darling Horse and Pony Club to the Walliston Pony Club.

Offsets

The applicant advised that in a recent independent botanical survey of Hartfield Park (Stratagen, 2012a&b), the proposed clearing area was classified as both degraded and completely degraded. The applicant stated that as identified in the Master Plan, it was recommended that the Shire of Kalamunda contact the DEC regarding obtaining permission for clearing for the purposes of developing additional sporting fields. The applicant noted the requirement to provide an offset proposal.

In identifying a suitable offset site, the applicant noted the DEC advice that the Shire of Kalamunda identify a site which was of the appropriate size required, is of the same vegetation complex (Southern River) and is a site with the highest level of protection (e.g., Bush Forever). The applicant advised that Poison Gully West is one of the few sites in the Shire of Kalamunda that meets these criteria and therefore the current offset proposal was developed.

ADDITIONAL DEC ADVICE

In its response to the appeal, the applicant referred to fauna and flora studies undertaken by Stratagen (2012a&b), specifically a Level 1 Fauna Survey and a Level 2 Flora and Vegetation Survey. These reports were provided to the DEC, where its advice was sought on the content, in relation to the assessment of the clearing permit.

In its additional advice, the DEC remained of the view that the granting of the clearing permit was justified. The DEC advised that the native vegetation is not considered to constitute significant habitat for fauna or a Threatened Ecological Community (TEC) or support rare flora species. Specifically the DEC stated that *Isoodon obesulus fusciventer* (southern brown bandicoot) prefers habitat consisting of dense undergrowth, which is absent from the area proposed to be cleared. The DEC acknowledged that there is potential feeding habitat for

black cockatoo species within the area to be cleared, however it is not considered to constitute significant habitat.

Furthermore, the DEC advised that the vegetation proposed to be cleared has been inferred as the TEC Floristic Community Type 3a *Corymbia calophylla* – *Kingia australis* woodlands on heavy soils, Swan Coastal Plains. The DEC considered that given the degraded nature of the vegetation, it is unlikely that a viable occurrence of this TEC could be confirmed at this site, as insufficient key species are present within the area to be cleared. The threatened flora species *Conospermum undulatum* was last recorded within the area proposed to be cleared in 1990. The DEC advised that subsequent site inspections and surveys undertaken within the area proposed to be cleared have failed to find this species, which is a distinct species that is readily identifiable outside of its flowering period.

In summary, the DEC considered that the residual environmental values of the native vegetation approved to be clearing were adequately addressed by the provision of the agreed offset associated with the clearing permit.

CONSIDERATION

The clearing permit authorises the Shire of Kalamunda to clear 1.88 ha of native vegetation for the purpose of developing a sporting field. To assist the consideration of the appeal, the appellant's challenge of the grant of the clearing permit has been summarised as follows:

- Whether planning instruments had been taken into consideration;
- Environmental values of the remnant vegetation; and
- Whether the permit conditions are appropriate, for example the offset requirement.

These issues will be addressed in turn.

Planning instruments

The application area is located within Hartfield Park, which is located within Bush Forever Site 320. Under the Metropolitan Regional Scheme the application area is reserved as 'Parks and Recreation'. From discussions with the Shire of Kalamunda it was understood that planning permission would be required from the Western Australian Planning Commission (WAPC) for the clearing of vegetation within the Bush Forever site.

In considering whether to grant a permit in respect of a Bush Forever site, the DEC has due regard to the advice of planning authorities on planning issues. In this instance the DEC obtained advice from State Strategic Policy of the DoP that it did not support the proposed clearing stating that alternatives should be considered as outlined in the Master Plan. Additionally, the DoP highlighted that Bush Forever policy aims to protect regionally significant vegetation, and has the key principle to avoid, minimise, and lastly mitigate any necessary clearing within a Bush Forever area.

The Shire of Kalamunda commissioned the preparation of the Master Plan to identify current and future sporting and recreational facilities of the park for the Shire of Kalamunda. The Master Plan identified that many of the sporting fields are either at or near full capacity or are being overused. The Master Plan identified that Hartfield Park contains highly sensitive bushland with very high conservation value and on this basis it was assumed that clearing around Morrison Oval for additional sporting fields would not be permitted by the DEC.

The Master Plan looked at many options to alleviate the pressure on the playing fields including, but not limited to, the following recommendations:

- Use of Pioneer Park, an old landfill site;

- Relocation of the Darling Range Horse and Pony Club, enabling the equestrian grounds to be developed into sporting grounds; and
- Expansion of Morrison Oval (the subject of this appeal).

Based on the potential of the alternatives, the appellant asserted that these other options should be explored further before remnant native vegetation is cleared to the northwest of Morrison Oval to provide the proposed playing fields.

The appellant also considered that the creation of new sporting field areas places added pressure on the Shire of Kalamunda to provide a new source of water. The appellant highlighted that the Master Plan stated that the groundwater licence for Hartfield Park was fully allocated (Shire of Kalamunda, 2010). In this regard the applicant advised that contrary to the Master Plan, the current groundwater licence for Hartfield Park is not fully allocated and groundwater is available to irrigate the proposed sporting fields.

During the appeal investigation, the Appeal Committee met with the Shire of Kalamunda to discuss the appeal. The Shire confirmed the requirement for the clearing, but indicated that there may be potential to retain some of the trees along Hale Road and Hartfield Road, which would also add to the aesthetics of the proposed sporting fields.

In summary, as the land is reserved as 'Parks and Recreation' under the Metropolitan Regional Scheme and is a Bush Forever site, written approval of the WAPC will be required for the proposed development. In addition, State Planning Policy 2.8 Bushland Policy for the Perth Metropolitan Region applies to the land, which aims to protect regionally significant vegetation. In assessing clearing permit the DEC obtained the advice of DoP, which did not support the proposed clearing based on the information presented in the Master Plan.

Environmental values of remnant vegetation

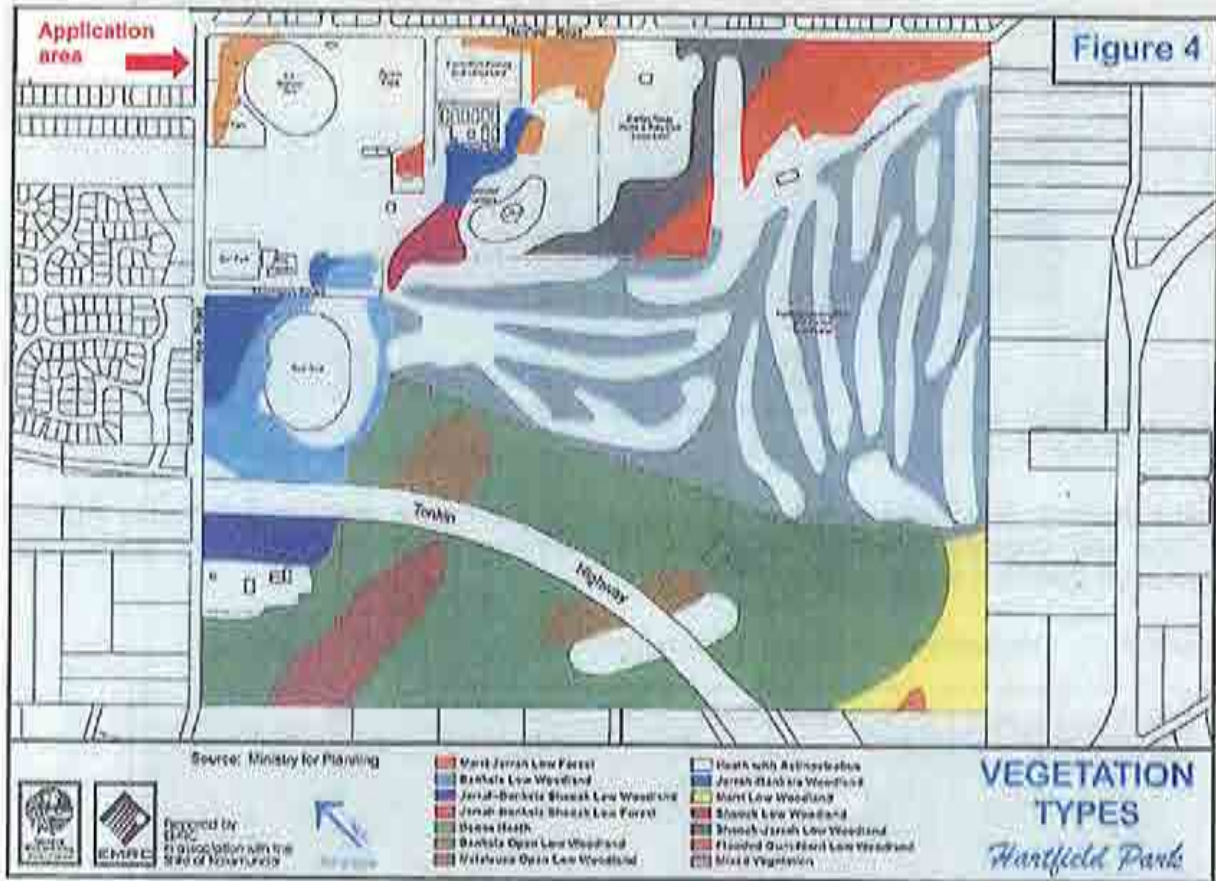
The DEC approved the clearing of 1.88 ha of native vegetation at the site, on the basis that the vegetation in the application area is predominately in a degraded condition. The DEC found the proposed clearing to be a variance to principle (h) as the application area occurs within Bush Forever Site 320, considered as a conservation area and an environmentally sensitive area. The DEC advised that the proposed clearing would directly impact on this conservation area by removal of vegetation and the potentially introduce and spread weeds and dieback. The DEC considered that weed management and an offset would mitigate these identified impacts.

The DEC granted the clearing permit with conditions relating to dieback and weed control, offset, records and reporting and noted the following regarding the application area:

- No DRF;
- Unlikely that TEC's occur;
- Limited weed species in the north east section of the application area, but are spread throughout the remainder of the application area;
- It is part of a wildlife corridor, however given the relatively small area proposed to be cleared and the predominately degraded condition of the vegetation, it is not considered to be significant fauna habitat;
- There is good tree cover dominated by marri;
- The proposed clearing will not disrupt connectivity of nearby DRF populations from remnant vegetation in Hartfield Park due to the clearing being in a disjunct area in the northwest corner; and
- The environmental value is limited due to the vegetation being in a degraded to completely degraded condition.

The appellant noted the absence of DRF, but considered that the pockets of remnant vegetation proposed for clearing serve as vital elements of linkages, greenways and wildlife corridors and serve to enhance the local and regional biodiversity. The appellant noted that the area is also located within Bush Forever Site 320 and that the condition of the vegetation has been allowed to degrade since the mapping provided in the Hartfield Park Management Plan (Shire of Kalamunda, 1997). Figures 4 and 5 are from the same plan and show the mapping of the vegetation in Hartfield Park where the vegetation in the application area was described as Marri-Jarrah Low Forest, in very good to good condition.

Figure 4 Vegetation types (Shire of Kalamunda, 1997)



The flora and vegetation survey indicated that the application area may comprise the threatened ecological community (TEC): FCT3a *Corymbia calophylla* – *kingia australis* woodlands on heavy soils, Swan Coastal Plain, listed as Endangered (*Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)) and Critically Endangered (DEC).

The flora and vegetation survey suggested:

- A large part of the communities most closely aligned to FCT3a in Hartfield Park, are in a degraded condition (see Figure 7) and as such, some parts of the area mapped may no longer be floristically accurate representation of the TEC as originally described;
- Areas defined as FCT3a should be considered as potential TEC, with further study recommended prior to development; and
- There are ten known occurrences of this community remaining, covering approximately 83 ha.

Figure 7 FCT 3a Areas and Associated Vegetation (Strategen, 2012b)



In its additional advice, the DEC noted that given the degraded nature of the vegetation, it is unlikely that a viable occurrence of this TEC could be confirmed at this site, as insufficient key species are present within the area to be cleared. In summary, the DEC remained of the view that the residual environmental values of the native vegetation approved to be cleared were adequately addressed by the provision of the agreed offset.

With regards to fauna, it is noted that the DEC's assessment of the clearing application did not specifically address fauna values of the application area. The applicant's appeal response referred to a Level 1 fauna survey undertaken by Strategen (2012a), which highlighted the potential for threatened fauna species, including Southern brown bandicoot/quenda and black cockatoos within the application area.

The fauna survey was provided to the DEC and after reviewing the report the DEC remained of the view that the granting of the clearing permit was justified and advised that:

- The *Isodon obesulus fusciventer* (southern brown bandicoot) prefers habitat consisting of dense undergrowth, which is absent from the area proposed to be cleared; and
- There is potential feeding habitat for black cockatoo species within the area to be cleared, however it is not considered to constitute significant habitat.

From a site visit conducted by the Appeals Committee on 6 September 2012, the vegetation proposed to be cleared was observed to contain healthy marri trees (also identified by the DEC in its assessment of the clearing application), with evidence of black cockatoo foraging through the presence of marri fruit on the ground with rims removed. As the clearing application area contains foraging habitat for black cockatoo species, any clearing within the reserve may trigger a requirement for the Shire of Kalamunda to refer the proposal under the EPBC Act (DSEWPC, 2012).

With regards to the appellant's concerns regarding potential impacts to wildlife corridors, the DEC considered that the environmental value was limited due to the vegetation being in a degraded to completely degraded condition. It is noted that Appendix 6 of the Master Plan states that the important flora and fauna linkages were identified by the Shire of Kalamunda through the Perth Biodiversity Project (see Figure 8). Interpreting Figure 8, the application area does not appear to be within the ecological linkages identified by the Shire of Kalamunda in its Master Plan.

Figure 8 Ecological linkages (Shire of Kalamunda, 2010 (Appendix 6))



Key: Wildlife corridors (pink) and Regional ecological linkage (yellow)

The fauna survey indicated that Hartfield Park appears to be connected by corridors of bushland to the Darling Scarp (via the southeast corner), the system 6 wetlands (via its southwest corner) and the airport via the vegetation on the northeast side of the Tonkin Highway. The report recommended that in order to maintain integrity of vegetation and associated fauna habitat, fragmentation of these areas should be avoided.

In summary it is noted that the vegetation proposed to be cleared has good tree cover providing habitat for black cockatoo species and is within Bush Forever Site 320, highlighting

the regional vegetation significance. The condition of the vegetation is predominately degraded, however there is potential for a TEC, where further work has been recommended prior to development.

Whether the clearing conditions are appropriate

The DEC granted the clearing permit with conditions relating to dieback and weed control, offset, records and reporting. Specifically the appellant objected to the offset requirement of the clearing permit, which requires the applicant to implement and adhere to the Poison Gully West Offset Project 2012. The project broadly requires undertaking weed control at Poison Gully West and is described as containing the following attributes (Shire of Kalamunda, 2012):

- Bush Forever site 45;
- Resource Enhancement Wetland;
- Aboriginal Heritage Site;
- Environmentally Sensitive Area;
- Southern River Vegetation;
- A population of the DRF *Conosporium undulatum*; and
- Feeding habitat for the Threatened species *Calyptorhynchus banksii* (Red Tailed Black Cockatoo) and Endangered species *Calyptorhynchus latirostris* (Carnaby's Black Cockatoo).

The appellant considered that the principle of using Bush Forever to offset vegetation clearing of other Bush Forever sites was flawed, asserting that Bush Forever sites in the Shire of Kalamunda have been allowed to degrade beyond the point of rehabilitation and then considered suitable for development.

The DEC acknowledged that proposal will impact on regionally significant bushland in Bush Forever Site 320, however, the DEC determined that the identified impacts could be managed through imposing permit conditions, including a targeted offset.

The DEC considered that the weed management and rehabilitation of 4.04 ha at Poison Gully West is adequate in achieving a positive environmental outcome for the clearing of 1.88 ha of degraded to completely degraded vegetation in Hartfield Park. The offset is at a ratio of approximately 2:1.

With regard to potential offset areas within Hartfield Park, it is noted that a large proportion of the south west of Hartfield Park has been offset through the Public Transport Authority, including the area of FCT3a between the golf course and Tonkin Highway described as being in very good condition. As such there is limited availability to offset the loss of vegetation within Hartfield Park. There are pockets of FCT3a and associated vegetation through Hartfield Park (see Figure 7), which similar to the application area, have deteriorated since 1997 from very good and good to degraded and completely degraded. Discussions with the Shire of Kalamunda indicated that managing these areas could be considered. In this regard it is noted that the Hartfield Park Management Plan has not been updated since 1997 and would likely benefit from being revised and updated to provide the community with confidence that the environmental values of the area are managed.

CONCLUSION AND RECOMMENDATION

From the information provided in respect to this appeal, the following is noted:

- The clearing is for 1.88 ha of native vegetation to expand existing sport fields at Hartfield Park;

- Area to be cleared is foraging and possibly roosting and nesting habitat for conservation-significant black cockatoo species;
- Site is inferred to be TEC FCT3a, of which less than 3% of the original extent remains;
- The Shire's environmental consultant recommended further investigations be carried out in respect to flora and fauna prior to commencement of development;
- Site is part of regionally significant vegetation identified through Bush Forever and protected under State Planning Policy 2.8;
- Department of Planning did not support the proposed clearing, noting its status as part of a Bush Forever site and content of the Master Plan;
- Vegetation condition is degraded to completely degraded (based on understorey diversity), but with part of the vegetation described as being in good condition, and healthy overstorey in northwest corner;
- Offset proposal is approximately 4 kilometres from the site and is revegetated at a ratio of 2 to 1, with a likely significant lag time between planting and the vegetation replacing habitat values removed at Hartfield Park;
- Planning approval may be required from the WAPC under the MRS; and
- Proposal appears likely to require referral to the Commonwealth under the EPBC Act due to removal of habitat of listed species.

Taking the above into account, it is considered that the values of the vegetation, combined with the planning context, merit reconsideration of the decision to grant the permit. It is recommended therefore that the appeal be allowed, and the permit revoked. This will give the Shire of Kalamunda the opportunity to conduct further work as recommended in the recent survey and allow further exploration of other options for providing recreational facilities within the area, updating the information in the Master Plan.

Should the permit be retained, it is recommended that the offset applying to the proposal be reviewed to further reflect the fauna values of the vegetation to be cleared. This should include consideration of offset areas within Hartfield Park of similar vegetation types, including where possible the retention of native trees along Hale Road and Hartfield Road within the application area.

Irrespective of the outcomes of the appeal, it is noted that the proposal appears to require referral under the EPBC Act for impacts to foraging habitat of black cockatoos. The Shire will need to consider its obligations to refer the proposal under the EPBC Act.

Additionally, it is noted that the Hartfield Park Management Plan has not been updated since 1997; given the declining quality of vegetation within the site, it is recommended that the Shire of Kalamunda update the Plan to ensure the ongoing protection of the environmental values of the site.



Mr Jean-Pierre Clement
COMMITTEE CHAIRMAN



Dr Lorna Davies
COMMITTEE MEMBER

References

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Strategen (2012a) Level 1 Fauna Survey. Hartfield Park and Lewis Road, Forrestfield. Prepared for Shire of Kalamunda by Australasian Ecological Services on behalf of Strategen, February 2012.

Strategen (2012b) Level 2 Flora and Vegetation Survey. Hartfield Park and Lewis Road, Forrestfield. Prepared for Shire of Kalamunda by Strategen, February 2012.

APPENDIX 1: Schedule 5– Principles for Clearing Native Vegetation (*Environmental Protection Act 1986*)

1. Principles

Native vegetation should not be cleared if -

- (a) 'Native vegetation should not be cleared if it comprises a high level of biological diversity';
- (b) 'Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia';
- (c) 'Native vegetation should not be cleared if it includes, or is necessary for the continued existence of, rare flora';
- (d) 'Native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of a threatened ecological community';
- (e) 'Native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared';
- (f) 'Native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland';
- (g) 'Native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation';
- (h) 'Native vegetation should not be cleared if the clearing of the vegetation is likely to have an impact on the environmental values of the any adjacent or nearby conservation area';
- (i) 'Native vegetation should not be cleared if the clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water'; or
- (j) 'Native vegetation should not be cleared if the clearing of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding'.