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Nature Reserves Preservation Group, Inc.

Date: 3 December 2014

**TO The Secretary
WA Planning Commission
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**Subject: Metropolitan Region Scheme Amendment 1271/41 Lot 59
Wilkins Rd. Kalamunda**

Nature Reserves Preservation Group (NRPG) is an umbrella environmental group within the Shire of Kalamunda and has been making submissions on behalf of members for 25 years. Over this period, areas of remnant bushland and natural wetlands have been lost to development despite submissions for retention of such areas. In the above MRS amendment, we see yet another threat to the biodiversity of our dwindling areas of natural vegetation. This submission is on behalf of and in the name of the Nature Reserves Preservation Group Inc. (NRPG).

NRPG strongly opposes this amendment proposal. Whilst acknowledging the increasing pressures to provide aged care facilities within the Shire, the transfer of 10.73 ha of natural bushland, gazetted as Darling Range Regional Park, to Urban zoning creates a precedent which is totally unacceptable to NRPG. The proposed development would involve significant clearing of natural vegetation and, consequently, would compromise the effective environmental values of Lot 59.

NRPG objects to the proposed rezoning on the following grounds:

- That the WAPC, whilst correct in its carefully-worded assertion that the subject block, Lot 59 Wilkins Rd is "...not part of the **current** Darling Range Regional Park", is wilfully ignoring the fact that Lot 59 was always intended for inclusion in the Regional Park. In doing so it compromises the integrity of the amendment process by misleading those making submissions.

- That the failure of State Government agencies to ensure its inclusion in the Park has increased its vulnerability to the proposed rezoning. [“Interim Management Committee to be established by Conservation and Land Management “(CALM)]
- That the environmental values of the block are an essential element in the makeup of the hills and of the local biodiversity.
- That the block is an integral part of the biodiversity of the acknowledged “green link” from Gooseberry Hill National Park to the State Forest.
- That the proposed siting of an aged-care facility on a ridge above an “extreme bushfire-prone area” (EPA advice to Shire of Kalamunda), subject to strong easterly winds in the bushfire season, provides an unacceptable risk to potential residents.
- That the requirement for a 100 metre Hazard Separation Zone -“Under the State Planning Policy 3.7 Planning for Bushfire Risk Management (SPP 3.7) buildings on Lot 59 will be required to have a minimum 100 metre Hazard Separation Zone from the Crown Reserve.” within the site. This would involve wholesale clearing of natural vegetation and render the site unsuitable for the proposed Bethanie Aged Care development.
- That the potential of the site as a location for aged care facilities should be ignored in any deliberations on the proposed rezoning.
- That the Shire of Kalamunda should not have identified the site as a “viable site for the development of aged care facilities” in its 2011 Local Planning Strategy, given the site’s acknowledged significance to maintaining the biodiversity of the scarp.
- That there are other identified and more-suitable sites within the Shire of Kalamunda.
- That the proposed rezoning conflicts with Shire of Kalamunda’s District Conservation Strategy (1995), Wildlife Corridor Strategy (1998), Local Biodiversity Strategy (2008), Local Planning Strategy (2010) and Local Housing Strategy (2013).

Since Lot 59 should be acknowledged as being within the original DRRP, a brief history is justified [particularly in light of the lack of historical “memory” amongst the constantly-changing staff of Government departments and agencies].

History:

The proposal to establish the Darling Range Regional Park was first announced in 1990. A draft document was released in 1993, attracting 120 submissions supporting the proposal, including one from Shire of Kalamunda. The Minister for Planning released the final Park proposal in October 1995.

Since an amendment to the MRS was required to secure the land required for the Park, MRS amendment 978/33 1996 was advertised for public comment. Within that amendment, proposal K13 included Lot 59 Wilkins Rd.

November 26 1996: there being no motion passed to disallow the amendment, the Darling Range Regional Park was proclaimed in the Government Gazette. At this

stage, Lot 59 (within proposal K13) was a part of that Park. Subsequently, there has been no motion passed, nor gazettal made to exclude K13 from the Park.

Until 2004, Darling Range Regional Park existed. Following a review of the DRRP, an examination of a “Parks of the Perth Hills” concept and the establishment of five new national parks, from January 2004 the management of Department of Conservation and Land Management lands was in accordance with “Parks of Perth Hills” concept. .

From March 2004, a “series of existing national parks and state forest will replace Darling Range Regional Park and will be managed under the title ‘Parks of the Perth Hills’.” (Parks of the Perth Hills Stakeholder Presentation October 2003)

Addressing the grounds for opposing the amendment:

Lot 59 and Darling Range Regional Park. Statements by Shire of Kalamunda officers and, within the text of this proposed amendment, WAPC, that the subject lot is not part of the Darling Range Regional Park, conflict with the indisputable facts that:

- MRS amendment 1996 was introduced to secure areas of land for the Regional Park. The amendment proposed, in part, “...the reservation of an additional 15,000 hectares of State or Local Government owned or vested land for inclusion into the Regional Park...”.
- Lot 59 Wilkins Rd. was an integral part of proposal K13 land intended for the Park.
- The Government Gazette of 22 November 1996 proclaimed the amendment 978/33 as taking effect “on and from 14 November 1996.”
- It must be assumed that the intention to have Conservation and Land Management establish an “Interim Management Committee as soon as possible following the completion of the current amendment” (a “key component in land management”), failed to ensure that **all** proposed lands were transferred to them for management.

Failure to ensure inclusion of K13 proposal in the Darling Range Regional Park.

- This apparent systemic failure on the part of State and Local Government agencies to reflect the inclusion of K13 within the Park, deprives Lot 59 of any protection potentially provided by Regional Park status.
- This failure is repeated by the Shire of Kalamunda in addressing the EPBC Act (EPBC Ref. No. 2013/ 6990) in 2014. Its ‘Locality and Property description’ of Lot 59, as “Originally created for the purpose of “School Site”, Lot 59 was later rezoned to ‘Parks and Recreation’ under the Metropolitan Region Scheme [Amendment 978/33 (1996)] and the Shire of Kalamunda’s Local Planning Scheme No. 3 and is currently part of the wider Wilkins Road Reserve area”, makes no reference to or acknowledgement of its intended inclusion in the Darling Range Regional Park.
- Minister Day’s response (20 February 2013, Ref. 33-19740) to the Chair of the Parks of the Darling Range Community Advisory Committee that: “In regard to the Darling Range Regional Park, in October 1996 MRS Amendment 978/33 included the ‘K13’ area and rezoned various Crown Reserves from the

Urban and Rural zones to Parks and Recreation to provide a green link between Gooseberry Hill National Park and the State Forest” similarly fails to acknowledge the sole purpose of the rezoning as being the creation of the Darling Range Regional Park.

Environmental values of Lot 59.

- The biodiversity values of the vegetation on this site are beyond dispute. They are essentially part of an important ridge ecological corridor containing very high biodiversity values. These values are also an essential characteristic of the “Local Natural Areas” which make the scarp an integral, unique element within the hills/foothills area.
- Kalamunda’s Local Biodiversity Strategy (2008) stresses the need to protect such areas, described as “those natural areas over which Local Government can exercise the most control.” These remaining 2110 ha form the focus of the Local Biodiversity Strategy.

Flora and Vegetation.

- The Level 1 Flora and Vegetation survey, undertaken in 2010 (A. Weston) described the vegetation of the survey area as, “Dwellingup vegetation complex in Medium to High Rainfall ” stating that “The condition of the vegetation was assessed as >90% being in Excellent to Very Good condition, with limited areas of poorer condition vegetation along the site boundaries and along tracks...” Kalamunda’s Local Biodiversity Strategy states that “Reserves containing 75% or more in good or better condition are required to meet the targets related to...” there follows a list including the Dwellingup complex. Recent site visits support this assessment.
- The above vegetation complex features in the previously cited Local Biodiversity Strategy, which outlines targets for the protection of such complexes. The aim of the Strategy to “Incorporate biodiversity protection into planning and decision making” should be acknowledged as being relevant at the appeals stage of this proposed amendment.

Significant Trees

- Trees with hollows suitable for black cockatoo nesting have been identified across Lot 59 (EPA advice to WAPC, July 2014)
- The EPA strongly recommends that “...subject to the requirements for bushfire protection, clearing of vegetation be minimized and, where possible potential cockatoo breeding trees be protected.” (ibid.)
- The Bamford survey (2010) likewise stresses that: “Where possible, these are to be retained in public open space, road reserves or other areas of retained vegetation [and] where possible potential cockatoo breeding trees be protected.”
- The preservation of such significant trees is enshrined in Kalamunda Shire’s Schemes, Strategies and Policies. Even within its Local Planning Scheme No. 3 (2007) “... native vegetation shall not be damaged, destroyed or removed,” and Local Planning Strategy (2010) 2.4.2 ‘Environment vision statement’ “The biodiversity and natural environmental values are protected and preserved for existing and future generations.”

Fauna.

- This proposal was referred to the Federal Government (EPBC referral 2014/6990) and was determined to be a “Controlled Action” under the EPBC Act 1999, due to listed threatened species and communities.
- Carnaby’s Cockatoo. The Carnaby’s Cockatoo faces extinction in the near future. One major reason for this is the rapid and increasing rate of clearance of their natural habitat. This rezoning and development proposal threatens 10 ha of the Carnaby’s potential breeding and foraging habitat. The proposed clearing, with the loss of 17 relevant trees should be opposed in light of their plight.
- Forest Red-Tailed Black-Cockatoo. Possibly even more threatened than Carnaby’s Cockatoo, clearing of vegetation for various purposes has forced flocks of these birds towards extinction over a short period of time.
- Local residents report the presence of both in the reserve over many years.
- Other birds have been recorded at the site including, Red-Capped Parrot, Port Lincoln Ringneck Parrot, Tawny-crowned and Brown Honey Eaters, Western Spinebill, Western Warbler, Striated Pardalote and Silvereye.
- The Shire’s letter to EPBC addressing the impact of clearing on the site, cites advice (in the case of Chuditch) that “...it is unlikely that Chuditch will be significantly impacted by the Proposal due to the abundance of suitable foraging habitat close to the Proposed area.”(p.11). This fails to consider the increasing rate of clearing of Chuditch habitat within the Shire through development, wildfires and controlled burning. It also fails to consider the impact of fire suppression measures that may be required on the Priority 1 catchment area to the east, in order to reduce the wildfire threat to Lot 59.
- The Shire’s Bamford fauna assessment (October 2010) reveals an apparent lack of awareness of the degree of development intended under the Bethanie Aged Care proposal, stating: “Until the details of the proposed development are finalised, it is difficult to assess the severity of any fauna mortality that may occur.” (section 5.1). This, despite draft concept plans of Bethanie Wellness Village being available, showing the extent of the proposed development. A similar lack of awareness is shown in Section 5.2 of the assessment. These assessments may be considered to be of little relevance.

Importance as a Green Link.

- Habitat loss and fragmentation of habitat, under pressure from development, are the two main causes of species loss in Australia. The survival of natural areas relies on the establishment and maintenance of ecological linkages such as that provided by Lot 59. Larger areas tend to maintain their biodiversity compared with smaller areas and, are more resilient to invasive species. On this basis alone, the proposed rezoning and inevitable clearing of the reserve should be rejected as inappropriate and unacceptable.
- In 1996, a number of submissions (114) supported the Parks and Recreation proposals and “...welcomed the WAPC’s initiative in the creation of the Darling Range Regional Park.” The submissions noted that the proposals in the amendment “...will retain the natural beauty of the hills, prevent development and preserve the land for future generations.” Submissions also commended the establishment of corridors of natural vegetation and supported

“...the preservation of habitat, wilderness, landscape and recreational opportunities.”

- In 1996 and later, in the EPA advice to WAPC (July 2014) the existence of this link was acknowledged, stating that “Lot 59 forms a green link between Gooseberry Hill National Park and State Forest.”
- Kalamunda’s Wildlife Corridor Strategy (1998) stresses “The need to link, protect and retain the level of vegetation cover associated with the reserve system in order to preserve biodiversity and fauna habitat [and to] protect pockets of remnant vegetation in areas subject to development.” It also stresses the strategic importance of Wildlife Corridors linking key conservation areas.
- The 1999 Policy Update stresses the importance of the Darling Range Regional Park in providing “...a framework of bushland reserves that would be complemented by a network of wildlife corridors linking these regional reserves with other smaller reserves containing conservation values...”
- Kalamunda’s Local Planning Strategy (2010) the main thrust of which is “The protection of the natural environment and biodiversity” stresses the importance of sustainability in any proposed developments. Ensuring that development is based “...sustainably within the guidelines established in the Shire’s Local Biodiversity Strategy [will] ensure all local natural areas and environmentally sensitive areas are afforded the appropriate protection in the planning process.”
- The ‘Environment Vision Statement’ of the Strategy gives an undertaking to ensure that “The biodiversity and natural environmental values are protected and preserved for existing and future generations.” (echoing the 1996 concern for future generations).

Fire Risk.

The use of the rezoning to “...allow for aged persons accommodation” fails to acknowledge the potentially dangerous exposure of any such development to the threat of a severe or catastrophic bushfire event.

- The advice from the Environmental Protection Agency that “Lot 59 and the adjacent Crown Reserve to the east are within an extreme bushfire prone area” serves to highlight the high level of risk assigned to this site.
- “SPP 3.7 promotes a precautionary principle which means that, in areas identified as bushfire-prone, the potentially serious risk to people, property and infrastructure from bushfire should take precedence over other considerations in any planning assessment. However, achieving the objectives and measures set out in SPP 3.7 should not be at the expense of achieving consistency with other policies and publications, particularly in relation to landscape amenity and biodiversity conservation. Contravention of relevant policies in order to meet bushfire risk management requirements may make a proposal unacceptable on planning grounds”
- Lot 59 clearly falls into Bushfire Attack Level BAL-40 or, given the prevailing easterlies, gradient of the slope and state forest to the east, into Bushfire Attack Level Flame Zone BAL-FZ.

- Given that, "...where there is an extreme bushfire hazard or requirements for the use of BAL-40 or BAL-FZ, the land is not considered suitable for development." (Appendix 4, Bushfire Protection Criteria, Element 1, Location, Explanatory notes.) the proposed rezoning to facilitate a development appears unjustified.
- The WAPC (Western Australian Planning Commission) "...will take a risk-minimisation approach in relation to any local planning scheme or amendment which proposes to facilitate intensified settlement or development within an identified bushfire-prone area."(EPA advice to WAPC July 2014) Such 'risk-minimisation approach' may well be at the expense of local biodiversity values."
- The EPA advises (July 2014) that, "Under the draft State Planning Policy 3.7 Planning for Bushfire Risk Management (SPP 3.7) buildings on Lot 59 will be required to have a minimum 100 metre Hazard Separation Zone from the Crown Reserve."
- "Any firebreak or hazard separation zone required to protect development or buildings on Lot 59 will need to be accommodated within Lot 59, not within the Corporation's Crown Reserve." (Email from Senior Town Planner Water Corporation. 30 October 2014.) This and the EPA advice above would preclude the development being accommodated.
- Bushfire Guidelines state that "Development shall be avoided in extreme bushfire hazard areas, unless considered unavoidable in accordance with the applicable policy measures" and that proposals for rural-residential development or an increase in residential densities, for example, would not be considered 'unavoidable development'.
- Applications for unavoidable development "...should not be contrary to the public interest and identify that no alternative location for the development exists."(ibid.) Kalamunda Shire has several alternative locations under consideration.
- "It is the proponent's responsibility to justify why their proposal should be considered as unavoidable development. In the absence of sufficient justification the proposal is unlikely to be supported." (ibid.)
- SPP 3.7 specifies that proposals within extreme bushfire hazard areas or areas where a BAL-40 or BAL-FZ assessment would exist are not to be supported. Lot 59 clearly falls into this category.
- 'Bushfire Protection Criteria Appendix 4' states that the intent is "To ensure that the subdivision, development or land use is located in areas with the least possible risk of bushfire, to help minimise risk to people, property and infrastructure." The proposal clearly runs counter to this criterion.
- Appendix 4 Bushfire Protection Criteria, Element 1, Location, 'explanatory notes' state that "...where there is an extreme bushfire hazard or requirements for use of BAL-40 or BAL-FZ, the land is not considered suitable for development." Lot 59 should not, therefore, be considered suitable for this development.
- EPA advice (2014), recommends that "...requirements of SPP 3.7 are met, including the requirement to formally assess bushfire risk as part of this amendment to rezone land." It states that Bushfire Management Plans "...should demonstrate that burning off will not pose a risk for any aged care accommodation and, that all occupants can be evacuated in an emergency."

- It is likely that burning off will be required to maintain the fuel load in the hazard separation zone. Burning off is likely to produce smoke which is a potential hazard for aged people.
- Under the Bushfire Management Plan a vulnerable use evacuation plan and a vulnerable use communication plan would be required.
- These requirements should not be left until a later development stage. Draft plans should be readily and widely available for public inspection at this time.

Rezoning land on the belief an aged care facility being established.

Describing Lot 59 as "...a viable site for the development of integrated aged care facilities in the hills area" and using this as justification for the rezoning, is inappropriate. It presupposes the rezoning will result in the creation of an integrated aged care facility. In its amendment proposal it considers that, on balance "...the social benefits of providing aged care facilities justify the proposed amendment proceeding." This indicates the Shire has failed to learn from past experience and is now exhibiting extreme naivety in its proposal.

- In 1997, the ACTIV Foundation proposed to develop the Hawkevale land in High Wycombe (Swan location 7561 and Reserve 34678 Hawkevale Rd High Wycombe). This proposal also required (and was successful in obtaining) a rezoning on a promise of aged care being a component of future development.
- In May 1998, ACTIV Foundation provided an Outline Development Plan which, in great detail, listed its proposed use of the land. Included in the ODP were the following: **Nursing Home** for residents requiring 24 hour-a-day care. **Retirement Village** to provide accommodation for the general public as well as Activ residents.
- Great emphasis was placed on the 'Community Facilities' to be provided in this development – the nursing home and retirement village. "...nursing staff will be available 24 hours per day."
- Now, 17 years later, despite continuing discussions at State and Local Government levels, there is neither a Nursing Home nor a Retirement Village. NRPG therefore maintains that the likelihood of an aged care facility being established, given potential restrictions on this proposed development are, at best, remote.
- NRPG has urged the Shire to look for more suitable sites which could be developed without the great loss of biodiversity and natural values.

Conflict with existing Shire of Kalamunda Strategies and Schemes. And State Policies.

- This rezoning proposal, originating with the Shire of Kalamunda, conflicts with the environmental sections of many, if not all, the Shire's Strategies and Schemes. [District Conservation Strategy (1995), Wildlife Corridor Strategy (1998), Local Biodiversity Strategy (2008) and Local Planning Strategy (2010)]
- If the environmental statements in the various Schemes, Strategies, Plans and Visions are to be seen as anything but empty rhetoric, the application for this rezoning should be withdrawn and the search continued for a more suitable, less environmentally-sensitive site.

- Whilst any reference to State Planning Policies may be outside the ambit of this appeal, consideration **should** be given to the conflict between amendments such as this and the Bushland Policy for the Perth Metropolitan Region (SPP 2.8), recognising as it does "...the protection and management of significant bushland areas as a fundamental consideration in the planning process..."

Other suitable sites.

The Shire of Kalamunda is investigating several alternative sites within the Shire. Some of these would be more suitable as locations for aged care facilities, and would result in less remnant native vegetation and therefore, biodiversity, being lost.

Conclusion.

The purpose of this amendment is "...to transfer approximately 10.73 ha of land from the Parks and Recreation reservation to the Urban zone in the Metropolitan Region Scheme (MRS)..." In effect, the proposed transfer **removes 10.73 ha of a gazetted Darling Range Regional Park**. **This sets a dangerous precedent.**

The fate of Reserve 30314 (Lot 59 Wilkins Road) hinges, in part, on its relationship to a Regional Park which no longer exists under that name. This is being used as an argument for denying the reserve any protection afforded by Regional Park status.

Despite Shire records confirming its intent to have Lot 59 included in the Darling Range Regional Park, the Shire of Kalamunda is now willing to "purchase the land from the crown to facilitate the development, or allow the crown to dispose of the land directly to a developer on either a freehold or long term leasehold arrangement." This complete 'about face' by the Shire flies in the face of the environmental components of all its Strategies, Schemes and Policies and indicates a worrying lack of concern for the environment in the face of development pressures.

As a member of the original Darling Range Regional Park Community Advisory Committee since 2000, I know we have been working towards a management plan for the Park (similar to that devised for Beeliar Regional Park in 2006). Since the purpose of the Community Advisory Committee is, "...to provide a regular forum to hear public opinion and exchange advice on management issues", current members have raised their deep concerns over the de facto excising of Reserve 30314 (Lot 59 Wilkins Road, from the Regional Park (regardless of the title given to that park).

Given the Shire of Kalamunda's enthusiastic support for the inclusion of this reserve in February 1997, "Any use of the land for other than Regional Reserve should not be supported..." and the "objective of the exercise... to preserve and conserve for perpetuity the valuable natural bushland that dominated the Darling Scarp", its current stance is puzzling and concerning. Their 1996 determination to preserve this site "...for future generations", echoed in their 2010 Local Planning Strategy, appears to have evaporated under the current pressure generated by the increased demand for aged care.

Should the rezoning be approved and the development take place, other concerns will need to be addressed. The effect of hazard reduction requirements on the adjacent Water Corporation priority 1 land and concern over the potential spread of dieback are two such concerns.

The bushland on this site is indeed a valuable natural area. Its loss to development would mean a great loss to the natural character of the area and to local biodiversity. NRPG urges Lot 59 be retained in its current state, the application for rezoning be rejected and, although perhaps outside the ambit of the amendment process, that consideration be given to its reinstatement into the Parks of the Darling Range, to be managed by the Department of Parks and Wildlife.

I request that a member, or members of the NRPG be permitted to appear at and address a Committee hearing .

Perhaps the Shire of Kalamunda, as proponents of this amendment should have the last word.

“The Shire of Kalamunda has a unique environment. By acting now in a strategic and consistent manner, this biodiversity will be maintained long into the future for many generations to come.” (Shire of Kalamunda Local Biodiversity Strategy 2008 p.104)

Yours sincerely,

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