

**Submission to STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS. Petition No. 1.12 - Walpole Wilderness and Marine Park**

I submit on behalf of the Walpole Bio-Diversity Protection Group (WBPG) that:

- an improper and deceptive reclassification of a land-use to accommodate a proposal by private company ManukaLife to plant tea trees on land owned by the Water Corp in Walpole; and
- the failure by the Manjimup Shire Council and/or the State government to apply and enforce regulatory pre-conditions before granting approval for the project:

has resulted in a failure of oversight and a failure to protect the ecologically sensitive environment of the Walpole Wilderness area and the security of the town's water catchment.

We therefore pray that all approvals for the project be suspended until the proper procedures are followed.

As the local authority responsible in the first instance for requiring land-use developments within its borders to comply with Shire regulations, the Manjimup Shire Council first justified its failure to enforce its regulations in correspondence with the WBPG on the dubious grounds that the manuka tea trees to be planted on the land were "not trees" and therefore not subject to conditions attached to developing a plantation.

It subsequently amended this explanation and in response to a presentation by the WBPG to a Shire Council meeting in Walpole on March 21 the Director of Development and Regulation said: "*Council is not being asked to consider an application, **the State is proceeding without applying for the Shire's approval.*** (For minutes and an attachment presenting the WBPG submission see link at [https://manjimup.infocouncil.biz/Open/2019/03/OC\\_21032019\\_MIN\\_WEB.htm](https://manjimup.infocouncil.biz/Open/2019/03/OC_21032019_MIN_WEB.htm))

We question firstly why the Shire represents itself as a passive agency that must await *requests* to consider land-use applications rather than demand that such applications follow the prescribed procedure; and we note secondly that if its failure to do so in this instance was ***genuinely*** a result of its authority being ***explicitly overridden*** by the State, we request an explanation from the relevant Ministers. In this regard we note that under the Water Corporations Act 1995 the Water Corporation is a trading enterprise that **does not have the status, immunities and privileges of the Crown** and we ask the relevant ministers to explain why the Water Corp should be treated any differently to a trading enterprise.

We note that following the reclassification of the development from plantation to 'revegetation' the development became, by the mere stroke of an administrative pen, a permitted use within the General Agricultural Zone of the Shire, rather than a discretionary use **which requires consideration by the Shire of Manjimup pursuant to the Local Planning Scheme.**

We submit that were the Shire left to conduct its own approval process – rather than surrendering this obligation at the demand of the State Government - and if the project was properly classified as a plantation (which is how the neighbouring Shire of Jerramungup classified an identical proposal – see below), the proposed use would require the Shire to "*exercise its discretion by granting planning approval*".

We note the reclassification came notwithstanding the fact that Water Corp in an internal memorandum provided to the WBPG under a Freedom of Information request stated that their proposed agreement with ManukaLife was "for the establishment of a Teatree plantation". Subsequently, in a move plainly designed to escape the regulatory oversight that would follow, the partners to the proposal are now calling it a *revegetation* programme - even though in its business case ManukaLife and the Water Corporation referred to it as a plantation from which it expected "***a strong commercial return***". Plainly a revegetation programme cannot, by definition, generate a "strong commercial return" (see below), and that option was indeed rejected by the Water Corporation during its business analysis.

But even if the reclassification is to stand, the developers would not be relieved of a duty to comply with industry best practice required for *revegetation* projects. Nor does it relieve the Shire or the State government of a duty to enforce that compliance.

We direct your attention in this regard to a best practice guideline adopted by South Coast Natural Resource Management, which defines revegetation inter alia to include "endemic native species to restore the natural environment and to enhance the habitat". It also stipulates that the revegetation should include a minimum of *five to nine* native species. In contrast the ManukaLife/Water Corp proposal which is now claimed to be 'native revegetation' is to plant the entire land area with a *single, non-native* and non-endemic species.

By any common sense reading of the regulations the proposal is a plantation and not a revegetation project and we submit that as the responsible authority charged with a duty of care to the environment and the local community the Shire has failed in both respects and neither the developers nor the Shire have

consulted relevant industry bodies as they are required to do, to ensure that the proposal complies with industry best practice and the environment is protected.

### **Jerramungup approval process**

The Walpole Bio-Diversity Protection Group submits that the process by which the proposed Water Corp/ManukaLife project was approved lacked transparency and failed to comply with the Local Planning Scheme, industry guidelines and regulations.

In this regard we draw your attention to the process adopted by the Shire of Jerramungup in evaluating an **identical proposal** which would appear to follow the best-practice guidelines required of a Local Government. (See link below.)

The minutes of the Jerramungup Shire Council's meeting of 15 February 2017 show that to obtain approval under the Shire's Local Planning Scheme the applicant – Dillon Bay Estates – was required to comply with the following Statutory requirements:

1/. Refer its proposal to the Department of Water, which noted that: “the creek line will be revegetated resulting in an improved environmental outcome and no objection is raised”.

2/. Refer its proposal to the Department of Parks & Wildlife (DPAW), which noted that the species of tea tree proposed for planting was native to Australia and New Zealand **and has been known to become an environmental weed**. (Our italics). DPAW therefore requested that an Environmental Management Plan be prepared to **monitor and prevent the spread of this tea tree into the surrounding reserve network**”.

The minutes note this requirement was fulfilled to the satisfaction of DPAW and included in the application details.

3/. Referred to the Department of Agriculture and Food (DAFWA) which inter-alia required that a Management Plan be developed “in accordance with the bee industry guidelines Code of Practice and National Bee Biosecurity Program”. DAFWA also required the applicant to be registered as a beekeeper under the State Biosecurity and Agricultural Management laws.

4/. Referred to the Shire's Department of Fire & Emergency Services which mandated several requirements including widening fire breaks.

Since the State Government now appears to have arrogated to itself the right to wave this development proposal through all environmental and regulatory conditions we therefore ask the relevant ministers the following:

1/. Was the proposed Walpole manuka plantation approved by all of the agencies consulted in the case of the Jerramungup plantation before planning approval was given to Water Corp and ManukaLife to proceed with their plans?

If not, why not?

2/. Was an Environmental Management Plan for the Walpole plantation prepared before planning approval was given?

If not, why not?

3/. Given the acknowledged threat of the invasive menace posed by the tea trees, was a weed risk assessment conducted before planning approval was given. If not, why not?

4/. Given that the Jerramungup plan required a 300ha buffer zone for the containment of the weed threat posed by the certain spread of the tea trees into surrounding native bush, was such a buffer zone required for the proposed Walpole plantation and if not why not?

In the absence of any answers to our questions the inescapable conclusion must be that this development was given the go-ahead without requiring any vetting procedures based on the retrospectively applied whim of a Local Government Officer that a tea tree is not a tree, a plantation is not a plantation; and/or don't look to the Shire Council for answers, look to the State government that it says arrogated to itself the responsibility of enforcing environmental and safety regulations and then waved the proposal through without imposing a single environmental or safety condition.

We now require answers to our questions from all the relevant ministers.

(Signed): Louis Beckerling, member, Walpole Bio-Diversity Protection Group.

Link to Jerramungup proposal:

<https://www.google.com.au/url?sa=t&source=web&rct=j&url=http://www.jerramungup.wa.gov.au/download/2126&ved=2ahUKewiexbON587eAhUYfCskHbN7BTgQFjADegQICBAB&usg=AOvVaw1KDvSFPpujcY3i>