

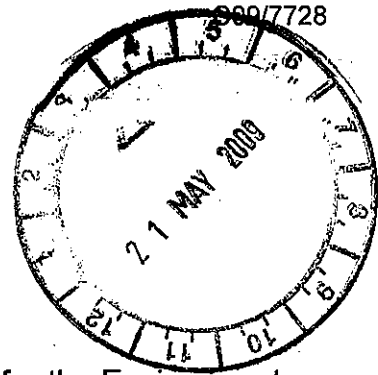


Australian Government

Department of the Environment, Water, Heritage and the Arts

Hon Sheila Mills MLC
Chair
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

PUBLIC



Dear Ms Mills

Thank you for your letter of 9 April 2009 to the Minister for the Environment, Heritage and the Arts, the Hon Peter Garrett AM, concerning the protection of habitat for the Western Ringtail Possum in relation to development at Dalyellup, WA. The Minister has passed your letter to me for reply.

The Conservation Agreement in relation to the Research and Monitoring of the Western Ringtail Possum in Urban Development Areas of Busselton and Bunbury came into effect in October 2006 and is currently still in effect. The outcomes of the monitoring and survey program are continuing to be negotiated with the proponent and it is anticipated that the program will commence early 2010.

The agreement can be accessed on the Department's web site at <http://www.environment.gov.au/epbc/about/conservation-agreements.html>.

An EPBC Act policy statement for the Western Ringtail Possum in the southern Swan Coastal Plain is being developed, and aims to provide guidance to people considering actions (e.g. developments) in Western Ringtail Possum habitat in this area. The policy outlines the requirements under the Environmental Protection and Biodiversity Conservation (EPBC) Act to refer actions likely to have a significant impact on a listed threatened species to the Department, as well as how to promote ecologically sustainable development. The draft policy statement is available on the Department's website (<http://www.environment.gov.au/epbc/guidelines-policies.html>).

The Australian Government's responsibilities under the EPBC Act 1999 relate to the protection of matters of national environmental significance (NES). These matters include World Heritage properties and National Heritage places, wetlands of international importance, nationally listed threatened species and ecological communities, listed migratory species, the Commonwealth marine environment and nuclear actions. Matters other than these defined matters of NES are the responsibility of the state or local government.

If a project is likely to have a significant impact on matters of NES, then the project is determined to be a Controlled Action and further assessment is required. At the end of the assessment process, if applicable, the Department imposes conditions on projects to reduce the significance of impacts on the matter/s of NES affected.

The petition enclosed with your letter refers to Stage 13 of Dalyellup Beach Estate and the Green Patch development. Stage 13 of the Dalyellup Beach Estate was referred to the Department under the EPBC Act in 2006 and approved as a Not Controlled Action- Particular Manner, a copy of the decision document including the particular manner has been attached for your information.

The referral currently with the Department is for the Green Patch subdivision at Dalyellup Beach Estate which was referred to the Department in 2007 and is currently in the referral process. We are awaiting further information from the proponent on the progress of this development before a decision is made on whether further assessment will be required.

Should you wish to discuss this proposal further please contact Amanda Slade on 02 6275 9134.

Yours sincerely



Ms Vicki Middleton
Assistant Secretary
Environment Assessment Branch
6 May 2009

Encl.

COMMONWEALTH OF AUSTRALIA
ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

**DECISION THAT THE ACTION IS NOT A CONTROLLED ACTION
PROVIDED IT IS UNDERTAKEN IN A PARTICULAR MANNER**

I, ALEX RANKIN, Assistant Secretary, Environment Assessment Branch, Department of the Environment and Heritage, a delegate of the Minister for the Environment and Heritage for the purposes of section 75 of the Environment Protection and Biodiversity Conservation Act 1999, decide that the proposed action, set out in the Schedule, is not a controlled action. Provided that the proposed action is taken in the manner described in the Schedule, the provisions of Part 3 of the EPBC Act set out in the Schedule are not controlling provisions.

SCHEDULE

The proposed action to undertake the development of Stages 13 and 16 of Dalyellup Beach Estate, Bunbury, Western Australia and as described in the referral received under the Act on 22 September 2006 (EPBC 2006/3075).

Provisions of Part 3

The relevant provisions of Part 3 are:

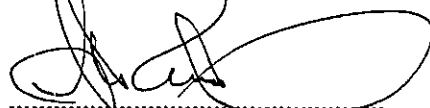
- Sections 18 and 18A (Listed threatened species and communities).

Manner in which the proposed action is to be taken:

The following measures must be implemented to ensure that significant impacts on the listed vulnerable Western Ringtail Possum (*Pseudocheirus occidentalis*) are avoided.

1. Native vegetation totalling a minimum of 5.66 hectares will be retained along the northern boundary, north-east corner, and a portion along the southern boundary, of Stage 13 and as described in the referral (*Western Ringtail Possum Assessment – Stages 13 and 16 Dalyellup Beach Estate* (Figure 2), ATA Environmental, September 2006). These areas will be managed to retain and enhance values for the Western Ringtail Possum (WRP), including as viable linkage habitat (for the northern and north-east portions) between existing coastal reserve areas and retained Public Open Space to the immediate east of Stage 13. Management will be in accordance with a WRP Management Plan to be prepared and implemented by Dalyellup Beach Proprietary Ltd, in consultation with the Western Australian Department of Environment and Conservation (DEC).
2. The WRP Management Plan will also address measures required to maintain the southern 'East/West Ecological Linkage' to the immediate south of Stage 13. These measures will be implemented by Dalyellup Beach Proprietary Ltd and may include additional tree plantings within the linkage corridor, a 'possum friendly' crossing of Dalyellup Beach Road to join habitat to the immediate east of Stage 13, and measures to reduce road kill risks along the western remainder of the road where it adjoins Stage 13.
3. All trees to be removed will be searched for individual WRPs and dreys the day prior to clearing. Any WRPs or dreys will be relocated to areas of the site where habitat is to be retained. A suitably qualified or experienced 'fauna spotter' will be present during clearing of potential WRP habitat to ensure that any possums incidentally present are relocated.
4. Translocation of up to three WRPs may occur to an approved offsite location if agreed by DEC. Any translocation will be undertaken by suitably qualified personnel in accordance with DEC protocols. Translocation will include a monitoring component at the new location for a minimum period of 12 months with a view to assisting in scientific understanding of the success or otherwise of translocation. Translocation and monitoring will be funded by Dalyellup Beach Proprietary Ltd.

Dated this 26th day of OCTOBER 2006



ASSISTANT SECRETARY
ENVIRONMENT ASSESSMENT BRANCH
DEPARTMENT OF THE ENVIRONMENT AND HERITAGE