

16th February, 2017

To: Mr Richard Sellers, CEO Main Roads,

Minister for the Environment Albert Jacob,

Mr Kim Taylor CEO Office of the Environmental Protection Authority

Dear Sirs,

We have evidence of non-compliance with the Fauna Management Plan (FMP) required to be implemented in accordance with condition 11-3 of the WA Environment Minister's Approval (Statement 1008) for the Roe 8 Extension.

1. A request for immediate action

Given the environmental harm currently occurring as a result of the alleged breach of the FMP we immediately request that Main Roads cease and desist from undertaking any operational clearing within the project site until evidence of satisfaction with the requirements of the FMP has been produced. We seek the EPA's response as to whether it proposes to take any enforcement action against Main Roads for the breaches that are outlined below.

We request that from 5pm tomorrow, Main Roads will cease all clearing operations on the site. We reserve our right to commence proceedings in the Supreme Court to seek amongst other things an interlocutory injunction to stop the breaches.

2. Details of the alleged breaches

The alleged breaches are of condition 4.2.2 of the FMP relating to the southern brown bandicoot trapping program. Section 4.2.2. provides that:

A suitably qualified fauna expert will undertake a 3-4 day Southern Brown Bandicoot trapping and translocation program in the construction zone. The trapping and translocation program will be implemented prior to the clearing and the installation of construction fencing. The program will be undertaken in accordance with a trapping and translocation program outlined in Section 5.2.

Further, Table 7 of section 5.2 provides that each trapping program will be undertaken for 3 - 4 days and will continue until no Southern Brown Bandicoots are caught for 2 consecutive trapping nights or as otherwise determined by a fauna expert.

16th February, 2017

Section 7, Table 9 provides contingency measures which are to be initiated should southern brown bandicoots still be trapped within 2 consecutive nights after the 3-4 day trapping program is completed. In such circumstances, section 7 requires that the following actions be undertaken:

1. Seek the advice of a fauna expert.
2. Implement any new recommendations which may include extending the trapping program until the number caught each night significantly reduces.

3. Evidence of the alleged breaches

Our group has evidence that on several occasions clearing has commenced within hours of bandicoots being trapped. The group has evidence of harm caused as a result of the clearing within hours of bandicoots still being caught and trapped, including photographic images of deceased bandicoots on the site.

The clearing that occurred on site from the 17th of December and between Coolbellup Ave and North Lake Road, (Coolbellup Woodland) was conducted without any netting being utilised.

The section that was cleared between North Lake rd and Progress drive had only partial netting, however the lower section towards Bibra Lake was netted and on the 17th of January a dead southern brown bandicoot was identified inside the netting boundary. The group has evidence that in contravention of section 5.2 of section 7 of the FMP, on 17th January there was mesh fauna fencing inadequately dug into the ground at the Progress rd. site

The clearing between Progress Dve and Bibra Dve was netted however the netting was not adequately dug into the ground (certainly not 350mm). In addition there were many areas where the netting was not complete – for example, not dug in or even joined.

During the clearing on the corner site Progress Rd and Hope rd. there was no netting for the entire clearing process.

4. Request for production of evidence of compliance

We seek the following information within 24 hours:

1. Evidence that, in accordance with Condition 7, Table 9 of the FMP, a qualified fauna expert determined that clearing could commence despite there being southern brown bandicoots being trapped within 2 consecutive days/nights prior to clearing commencing on the 13th and 18th January 2017 and 16th and 28th January 2017 and 9th February and 16th February, 2017
2. Evidence that on all clearing dates mesh fauna fencing was in place in accordance with section 5.2 table 7 of the FMP.

16th February, 2017

Regards,

Kate Kelly Save Beelihar Wetlands Inc.

By email: