

To whom it may concern

Development Application no. 202341697

The Commissioner for Sustainability and the Environment is an independent statutory position established by the *Commissioner for Sustainability and the Environment Act 1993*. My Office embraces transformative change for an environmentally sustainable future and encourages sound environmental practices and procedures to be adopted by the Territory.

The Office opposes the Development Application for Riverside Park in Ginninderry on the grounds that it will have unacceptable impacts on existing ecological communities. This is particularly concerning given that the proposed development is situated within a self-proclaimed ‘conservation corridor.’

The Riverview Projects Program Report clearly states that *“Conservation will be the primary use of the proposed conservation corridor and other uses, such as recreation will only be allowed where they are compatible or have no significant adverse impact on conservation.”*¹

The proposed development of Riverside Park – in which native habitat will be cleared to make way for a pavilion, 69-space carpark, and playground – is a stark example of recreational public access being prioritised at the expense of the Corridor’s natural values.

Impact on Threatened Species and Ecological Communities

The Ecological Impact Assessment (EIA)² found that construction of the proposed development will have direct and unavoidable residual impacts on a range of MNES and Nature Conservation Act listed ecological communities. These are summarised in the table below.

Matters of National Environmental Significance (MNES)	<ul style="list-style-type: none">• 0.18ha of EPBC Act Box-Gum Woodland• 1.03ha of Natural Temperate Grassland of the South-Eastern Highlands (NTG-SEH)• 0.55ha of Pink-tailed Worm Lizard (PTWL) habitat
Nature Conservation Act	<ul style="list-style-type: none">• 3.93ha of NC Act native vegetation including 0.48ha of NC Act listed Box-Gum Woodland

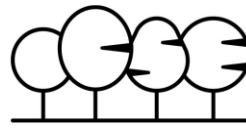
The EIA further notes that indirect and cumulative impacts may occur to native vegetation and habitat adjacent to the development footprint including:

- Increased noise, vibration and dust during construction
- Changes in hydrology and increased sedimentation of receiving waterways during construction
- Weed introduction and/or spread during construction and operation
- Increase in pest animal populations as a result of increased human activity during operation

There are also likely to be ongoing impacts caused by increased public access to this previously undeveloped area. Riverside Park is expected to host up to 90,000 visitors per year, 30,000 walkers

¹ A T Adams Consulting (2017). *Urban Development at West Belconnen. Program Report*. Prepared for: Riverview Projects [ACT]

² Capital Ecology (2023). *Riverside Park, Ginninderry ACT – Ecological Impact Assessment and Defined Process Strategy*.



each year and up to 300 vehicles each day.³ This high rate of visitation is likely to lead to general disturbance, incidental damage or removal of native vegetation, and potential light and noise pollution from events such as conferences and weddings.

The Office acknowledges that steps have been outlined to minimise the proposed development's impact on biodiversity within the Corridor during construction and operation. However, the fact remains that these sites would not be impacted at all were it not for the choice to develop this conservation area for human use. It is overwhelmingly likely that 'minimising impacts' still represents a net loss for the ecological communities involved.

If the Conservation Corridor is truly intended to be a place of conservation, then these impacts are unacceptable.

Inadequacy of Offsets

In accordance with the EPBC Act approval conditions, impacts on MNES caused by the development's construction are required to be offset to achieve no net loss of habitat.

The Ginninderry Development Offset Management Plan identifies specific areas in the Corridor to be enhanced and/or restored to offset impacts on MNES. The EIA proposes the following offsets to be implemented by the Ginninderry Conservation Trust:

- For the 1.03 ha of NTG-SEH that will be cleared, 34.2 ha of NTG-SEH occurring within the Corridor will be offset through restoration management measures including weed control, threatened species translocation, improving fauna habitat etc.
- For the 0.18 ha of Box Gum Woodland that will be cleared, 34.3 ha of Box-Gum Woodland occurring within the Corridor will be offset through restoration management measures such as targeting planting of woodland trees and shrubs, placing woody debris, stabilising erosion etc.
- For the 0.55 ha of PTWL habitat that will be cleared, 44.1 ha of PTWL habitat occurring within the Corridor will be restored through weed control, habitat creation etc.

However, as specified within the *Ginninderry Conservation Corridor Management Plan 2018-2023*, similar restoration actions for MNES areas were already planned to occur. Section 5.0 – Special Management Areas – specifies five-year and long-term objectives for managing areas including PTWL habitat, Box-Gum Woodland, and NTG-SEH with the objective of preserving and enhancing these areas.⁴ Consequently, it is unclear how the offsets outlined in the EIA represent a net gain in total habitat area as they appear to be 'business as usual' under the existing management plan. As such, they are insufficient to offset the clearance of MNES habitat.

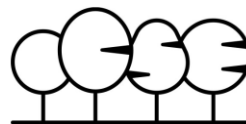
Scale of the Development Exceeding Original Plans

The EIA declares that the proposed development is already an approved action under the Program Report, which has received EPBC Act approval, and therefore does not trigger the Defined Process Strategy. The Defined Process Strategy is implemented when the design for infrastructure within the Corridor that may impact MNES substantially changes beyond what is already described within the original program.⁵

³ Bushnell, I (2023), *Ginninderry's Riverside Parkland to be region's new nature destination*. RiotACT. Found at: <https://the-riotact.com/ginninderrys-riverside-parkland-to-be-regions-new-nature-destination/682800>

⁴ Ginninderry (2018). *Ginninderry Conservation Corridor 2018-2023 Management Plan*.

⁵ Capital Ecology (2023). *Riverside Park, Ginninderry ACT – Ecological Impact Assessment and Defined Process Strategy*.



The EIA cites the Program Report's mention of developing "recreation and tourist facilities including buildings, picnic areas, car parking and access roads and walking and cycling tracks" in Section '3.1 Summary of Actions'⁶ to demonstrate the proposed development is already described by the program.

In addition, the EIA cites to the Programs Report's reference to the West Belconnen Land and Open Space Strategy⁷ in Section '3.6.2 Conservation Corridor access and activity nodes' to further substantiate this claim. The Landscape and Open Strategy includes the following details of the proposed recreation area in the Corridor:

"The recreation area will enable local residents and the wider community to engage with the river at the heart of the conservation area. Proposed recreation activities are to include picnic facilities, interpretive play and free play areas and educational elements regarding the surrounding landscape. Due to limited ability to provide utilities to the site, composting toilets will be utilised. The recreation area will also provide a base for excursions into the Conservation Corridor and beyond".⁸

However, the scale of the proposed Parkland Development – which includes a 984 square metre building comprised of a kiosk, kitchen, restroom facilities etc. that will operate as a licensed venue to cater for conferences, functions, weddings⁹ - significantly deviates from the original plans for the recreation area as outlined above. The scale of the proposed development combined with the expected visitation rates of up to 90,000 visitors per year and 300 vehicles per day represents a seismic increase in proposed infrastructure, which will likely create unanticipated impacts to threatened species and communities than what was outlined in the Program Report.

Compliance with the EPBC Act

Section 9.1 of the EIA states that the "relatively small-scale of the impact combined with avoidance measures (Section 5), minimisation and mitigation measures (Section 7.1), ongoing protection and management measures (Section 7.2), and offsetting measures (Section 7.3, Section 8 and Section 9) indicate that the proposed development is unlikely to significantly impact any of the MNES that occur in the GCC".¹⁰ Despite the percentage of the residual impacts to MNES seeming relatively small, this amount of habitat clearance is occurring within numerous developments across the ACT creating a cumulative impact on MNES and death by a thousand cuts for threatened species and habitat.

Furthermore, demonstrating compliance with EPBC Act approval conditions does not ensure the protection of MNES occurring within the Corridor. The limitations of the EPBC Act have been highlighted within the 2020 Independent Review of the EPBC Act, which found that "the EPBC Act is ineffective. It does not enable the Commonwealth to effectively protect environmental matters that are important for the nation. It is not fit to address current or future environmental challenges".¹¹ In addition, it found that the "the overall result for the nation is net environmental decline, rather than protection and conservation". It is therefore appropriate to question whether the EPBC Act approval

⁶ A T Adams Consulting (2017). *Urban Development at West Belconnen. Program Report*. Prepared for: Riverview Projects [ACT]

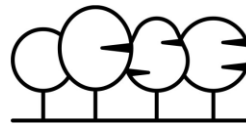
⁷ McGregor and Coxall (2014). *West Belconnen Landscape and Open Space Strategy*. Prepared for Riverview Projects [ACT] Pty Ltd & ACT Land Development Agency.

⁸ Capital Ecology (2023). *Riverside Park, Ginninderry ACT – Ecological Impact Assessment and Defined Process Strategy*.

⁹ Canberra Town Planning (2023). *Part Blocks 2 and 5 Section 37 Strathnairn; Part Block 1 Section 3 Macnamara; and Part Block 1640 Belconnen: Statement Against Relevant Criteria*. Prepared for Ginninderry.

¹⁰ Capital Ecology (2023). *Riverside Park, Ginninderry ACT – Ecological Impact Assessment and Defined Process Strategy*.

¹¹ Department of Climate Change, Energy, the Environment and Water (2020). *Independent review of the EPBC Act: Executive Summary*. Found at: <https://epbcactreview.environment.gov.au/resources/final-report/executive-summary>



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conditions to minimise adverse environmental impacts from the proposed development are sufficient to protect MNES. The EPBC Act could be seen to represent the minimum standard required for this development and the ACT Government should consider whether this is adequate in the Territory context.

I have held concerns for some time about how public access controls and enforcement will function in the Corridor as the population of the adjacent urban area increases. The proposed development would make management of this threat almost impossible, putting at risk a number of MNES and river corridor more broadly. It is my opinion that this development is wholly inappropriate for the proposed location, and it should instead be situated outside the Conservation Corridor in the nearby urban area. This is in keeping with the Ginninderry Conservation Corridor Management Plan's stated aim to manage the threat of inappropriate location of trails and infrastructure.

Thank you for your consideration and please do not hesitate to contact me if you have any queries.

Yours sincerely

Dr Sophie Lewis
Commissioner for Sustainability
and the Environment

1 August 2023