

Responsibility	Riverview Group
Consultation and endorsement	Consultation with NSW Office of Environment and heritage during preparation Endorsement by ACT Conservator of Flora and Fauna
Distribution	Provided to DoE To be made publically available
Independent Audit	
Purpose and content	To independently verify the outcomes being reported in the Annual and Program review reports
Timing	Within a timeframe that enables the results to inform the Program Review Report
Responsibility	To be prepared by an independent expert with appropriate scientific qualifications To be appointed by the EMT with advice from the ACT Conservator of Flora and Fauna and relevant NSW agencies
Consultation and endorsement	None specified
Distribution	Non specified

7.2 Adaptive Management

One of the key actions involves establishment of an EMT to implement the Plan. The EMT will be responsible for monitoring, review and reporting against the objectives of the Program with respect to each of the actions described in the Plan.

The EMT will be established on a framework of adaptive management which is described by the guide to undertaking strategic assessments (Aust. Government, 2011) as a systematic process for continually improving management practices through learning from the outcomes of previous management. Figure 15 is reproduced from the guide and illustrates the process of adaptive management.

An Adaptive Management Framework will be an integral component of the reserve management plan discussed at Section 7.4.

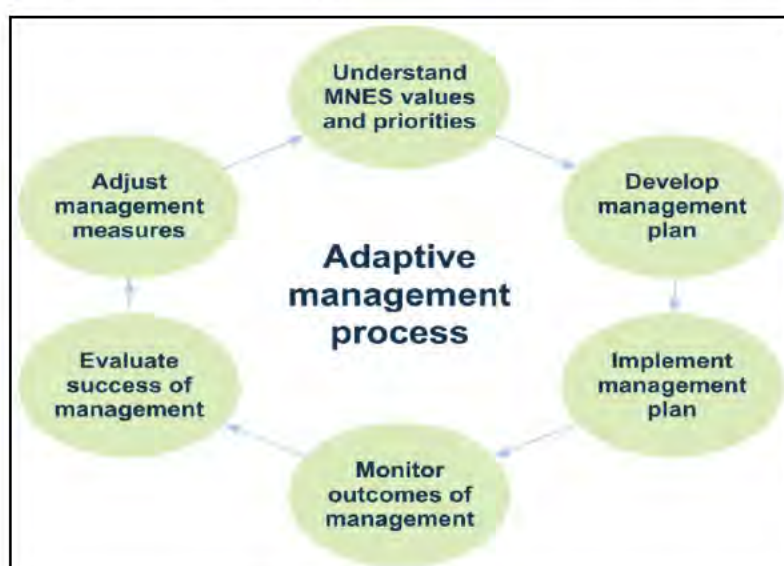


Figure 15: Adaptive management process

7.3 Contingency against failure of the management trust

Whilst the establishment of the trust will be on the basis that it continues to operate in perpetuity, the possibility exists that for reasons that cannot be foreseen circumstances may arise such that it ceases operation either in the ACT, NSW or both. Provision must be made so that should this occur outcomes proposed for MNES continue to be achieved. For this reason the trust will be established on the following basis:

- In the event that the trust ceases to manage the NSW land within the WBCC, then ownership and management of the land will transfer to the Shire of Yass valley. To ensure that, if such a transfer should occur, adequate resources are available to provide for the ongoing management of the land to achieve the MNES outcomes, the trust deed will require that the cash reserves of the trust financial reserves never fall below a pre-determined amount (nominally \$2m) which will be transferred to the council for use in the ongoing management of the land.
- Acknowledgement of this responsibility and agreement as to the reserved dollar amount will be inherent in the approval of the rezoning of the NSW land by the NSW Department of Planning and Yass Valley Shire.
- In the event that the trust ceases to manage the ACT land within the WBCC, then custodianship and management of the land will revert to the ACT Government and the land would be managed as part of the ACT system of nature reserves. Responsibility for the achievement of MNES outcomes will be inherent in this and will be implemented as are such commitments elsewhere in the nature reserve system.

7.4 Dealing with Uncertainty

The RMP will operate in accord with the timeframes discussed at section 6.0; the program will continue in operation subject to successfully meeting stated objectives as discussed at section 5.0. The outcomes will continue to be achieved under the ongoing management regime of the EMT which is intended to continue in perpetuity.

The critical function of the adaptive approach to effective implementation and management of the corridor and offsets is to allow for a feed-back of knowledge into the decision making process, informing and re-informing progressive editions of the reserve management plan. This allows for the Program to be responsive to changes that may not have been anticipated. This provides for uncertainty to be managed over time. Uncertainty with respect to the Program will be associated with:

- timeframe for implementation;
- unforeseen influences and factors for which the Program has limited ability to respond to (eg. climatic extremes); and
- direct and indirect offsets where success is dependent upon assumptions of practicability.

Examples of uncertainties that may arise in relation to the Program are summarised below:

- **Implementation timeframe.** The timeframe for implementation of the program will exceed by many years the life of the current and subsequent governments at territory, state and Commonwealth levels. Uncertainty in this aspect relates to change of government priorities and policy. Also, delivery of the full package of avoidance and offsets and the resultant conservation gains as set out in section 5.0 is also subject to the urban development proceeding as planned.

The avoidance and offset measures are tied to progress of development. In the event that West Belconnen is not developed in the manner described by this Program, individual developments and conservation outcomes will be considered on a project by project basis under the relevant regulatory requirements of each jurisdiction.

- **Achievement of objective gains in habitat quality.** Despite a high level of confidence that the objectives of the Program can be met, there is uncertainty as to the specific amount of improvement in habitat quality that might be achieved. This uncertainty will be addressed through the adaptive management framework described in Section 7.2.
- **Climate change.** There is a level of uncertainty about the extent that climate change may affect the conservation outcomes envisaged under the Program. Given the long time frames involved and the uncertainty associated with climate change predictions, it is difficult to determine how climate change may further impact (either positively or negatively) or increase pressure on issues associated with enhancement of the preserved vegetation communities or individual species/habitats.
Notwithstanding, the approach proposed in the Program is to focus on the conservation of larger (and hence more viable) habitat areas by enhancing the existing reserve network with resulting improvements in connectivity, edge to core ratios and structural functionality. This approach will encourage the development robust ecosystems with greater resilience to climate extremes and the uncertainties of climate change.
- **New species listings.** The potential exists for new species and communities to be listed under EPBC Legislation during the course of the Program. The Adaptive Management Framework will provide scope for CEMPs, design and master planning, Reserve Management Plans and Land Management Agreements to be amended to include protection to newly listed MNES if required.
- **Species de-listing.** The potential exists for species that are currently classified as MNES and the subject of this program to be de-listed.
- **Vandalism or similar malicious actions.** May occur and require action or responses that vary from normal requirements.

Regardless of the uncertainties, the adaptive management framework which the EMT will implement will ensure uncertainty is managed in a way that ensures the delivery of conservation gains that are efficient, effective, timely, transparent, scientifically robust and reasonable.

In the event that ongoing monitoring confirms that environmental outcomes consistently meet performance targets for maintenance and enhancement, then the EMT will review the frequency of ongoing monitoring as part of the five yearly review. This will occur in consultation with the ACT Conservator of Flora and Fauna and relevant NSW agencies. In the event of monitoring that identifies significant unforeseen environmental impacts, the EMT may be revised to enable more frequent or an alternative monitoring schedule to allow those impacts to be understood and appropriately managed.

7.5 Remedial Actions

As identified in the preceding section, there are a range of uncertainties associated with implementation of the Program. In order to ensure delivery of the outcomes, a range of further actions are to be undertaken in the event it becomes apparent that performance indicators are not being met. Examples where this may occur include:

- nature reserves are not created;
- mitigation measures do not avert risk and unanticipated impacts to MNES occur;

- habitat improvement targets are not achieved;
- habitat values as determined by regular monitoring and reporting identifies a declining trend;
- populations of MNES decline.

Instances where a decline in MNES values may occur could be categorised in one of two ways, the first being circumstances under which the EMT has no influence (e.g. climate change). Where it can be demonstrated that this has been the case it is not proposed to undertake additional actions beyond the scope of the Program as described. Adaptive management principles will be followed in order to identify feasible improvements to the Plan implementation regime.

Alternately, in circumstances where the EMT has the ability to remediate, and declines were the result of otherwise avoidable events, further actions will be undertaken to ensure the Plan's stated outcomes are delivered. Remedial actions may include either:

- directing a third party (for example a contractor) to remediate an area as a result of that party's actions; or
- undertaking remedial actions in response to actions that could have been avoided.

The trigger for undertaking remedial actions will be either the result of an observed breach of the commitments in the Program during the construction phase (e.g. CEMP prescriptions not followed resulting in 'environmental harm'), or trends in monitoring MNES indicates a decline in values over time. A summary of this assessment will be provided in the Annual Report. For circumstances where damage to MNES occurs as a result of actions that are inconsistent with approved program, the EMT will direct the responsible party, at their own cost, to remediate the damage and return the site to a condition equivalent or better than prior to the incident. If this cannot be achieved, an offset that complements the Plan will be identified, secured and managed by the responsible party to the satisfaction of DoE.

Should it be determined through the Program Review Reports that a decline in MNES values over time has occurred, the cause for the decline will be investigated by the EMT. The investigation will consider what factors are likely to have led to the decline in order to determine what was responsible. It will also determine whether it was caused by a factor that could be controlled or anticipated by the EMT such that an alternative management regime if implemented under the adaptive management framework was likely to have averted the decline. In the event that it is deemed to be a controllable factor that caused the decline, a remediation plan will be developed to the satisfaction of DoE. This plan may involve a range of actions depending on the matter affected, the significance of the impact and what may practicably be implemented. Actions will be commensurate with the magnitude of the decline relative to the protected matter's conservation status and may include actions such as:

- Additional habitat restoration activities; and / or
- Additional offset areas.

In any circumstance, the first action will be an investigation of the reason for the decline or damage to MNES values. The outcome of this investigation will inform the EMT of the next step to be taken.

7.6 Compliance and Enforcement

Commitments made in the Program regarding the protection and management of MNES will be achieved through development of a reserve management plan administered by the EMT in consultation with the relevant ACT and NSW Government agencies and experts as appropriate with reference to the specific objectives in the Program. The reserve management plan will provide the detailed basis for all conservation actions under the Program.

As detailed in Section 7.1, implementation of commitments made in the Program regarding the protection and management of Matters of National Environmental Significance (MNES) will be reviewed and reported on an annual basis. The review shall be undertaken by the EMT as a part of the annual reporting process.

Findings of the review will be incorporated into the Annual Report and/or Program Review Report as appropriate in order that relevant improvements to implementation of the Program can be incorporated through the adaptive management process.

Further to the review of annual performance, the EMT will also engage a third party independent auditor to investigate the financial aspects of the Program's implementation and to report on the investment in MNES commitments described in the Program and reserve management plan. This will be prepared in order that it can be included in the annual report which is the responsibility of the EMT.

Existing structures of compliance and enforcement exist with respect to ensuring CEMPs (in NSW and in the ACT) are prepared and implemented as approved. The EMT will ensure matters relevant to the Program are included in this process in order to ensure that commitments relevant to the construction phase are met and the associated outcomes achieved. The framework of the relevant ACT and NSW legislation provides a regulated system for compliance and enforcement including a range of penalties according to the significance of 'environmental harm' caused.

Incidents of non compliance with the commitments of the Program that have the potential to impact MNES will be reported to the Department of the Environment within 24 hours of being brought to the attention of a member of the EMT. The EMT will consult with the department on handling, mitigation, remediation or legal action required.

8.0 Cost of Implementing the Proposal

8.1 Financial Commitment

Table shows the proposed arrangements for funding the conservation reserves. The funds will be administered by the EMT.

Table 6: Formula for Program Implementation Funding

Conservation Areas	Area (ha)	Formula for Funding	
		Reserve establishment. Start-up period – initial 3 years of establishment	Ongoing management. Following establishment – in perpetuity
River corridor (ACT)	371	Establishment funding as required by West Belconnen project	ACT Government contribution on a per hectare basis equivalent to reserve management costs per Ha for equivalent reserves managed by TaMS ² .
River corridor (NSW)	206	Establishment funding as required by West Belconnen project	Contribution by developers to a capital investment fund equivalent to 1% of retail value of all lots sold or otherwise transferred.
Macgregor reserve	50ha approx.	Established	ACT Government contribution on a per hectare basis equivalent to reserve management costs per Ha for equivalent reserves managed by TaMS.
Jarramlee reserve	112	Established	ACT Government contribution on a per hectare basis equivalent to reserve management costs per Ha for equivalent reserves managed by TaMS.
Lot 2 Wallaroo Road	86.8	ACT Government Purchase from Commonwealth plus Establishment funding as required by West Belconnen project	ACT Government contribution on a per hectare basis equivalent to reserve management costs per Ha for equivalent reserves managed by TaMS.

² The Gungahlin Strategic Assessment Report March 2013 quotes (P. 39) a cost of “\$1,530 per hectare per year to manage environmental matters to the level of statutory duty of care”. This provides a basis for funding of the proposed West Belconnen land. It will be adjusted annually as a component of the ACT Government budget. Taking into account the relatively high concentration of MNES at West Belconnen a figure of approximately \$2120 per Ha per year is proposed, subject to budget processes.

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ACT
Government

Environment, Planning and
Sustainable Development

**TALKING POINTS – Attachment F
Ginninderry Urban Development –
Stage 2 and Subsequent Stages**

TALKING POINTS FOR THE GINNINDERRY URBAN DEVELOPMENT STAGE 2 AND SUBSEQUENT STAGES EIS EXEMPTION APPLICATION

- On 9 March 2018, Riverview Projects (ACT) Pty Ltd lodged an application for an Environmental Impact Statement (EIS) exemption under s211 of the Planning and Development Act 2007 for the urban development of Ginninderry Stage 2 and subsequent stages.
- On 24 October 2018, I granted an EIS exemption to the Ginninderry project as I am satisfied that the expected environmental impact of the proposal has been sufficiently addressed through recent studies.
- All future development applications in this area, including the estate development plans, must be lodged in the impact track and will be assessed against the mitigation measures and development conditions identified in the EIS exemption process
- The application relates to works in the ACT Government and Riverview Projects (ACT) Pty Ltd joint venture urban development area.
- The overall Ginninderry project is for urban development over the next 40 years to provide residential, community and commercial development in new suburbs in the ACT and NSW to cater for a population of 30,000 residents.
- Ginninderry Stage 2 and subsequent stages includes urban and infrastructure development of land in West Belconnen near Holt and Macgregor and road upgrades for local and arterial roads surrounding the site.
- The Ginninderry project includes a biodiversity offset package of 360 hectares of the West Belconnen Conservation Corridor (WBCC) along the Murrumbidgee River and Ginninderry Creek across the ACT and NSW.
- The EIS exemption application was publicly notified from 30 March 2018 to 1 May 2018.
- The consultation period was 20 working days. This was extended beyond the minimum 15 working days for an EIS exemption due to the number and complexity of documents lodged, allowing the public additional time to consider the information.
- The information provided by the proponent was considered sufficient to understand the impacts of the proposal on the environment.
- The Ginninderry project has a 40 year timeframe and will be completed in stages. The proponent has indicated that two stages of the project, specifically the sewer tunnel and extension to Ginninderra Drive, are unlikely to commence for approximately 10-20 years

- The extension of Ginninderra Drive and the construction of the sewer tunnel are contingent on the success of future NSW approval processes. As such, the Authority does not require the Proponent to provide detailed information on the relevant matters at this point in time. Rather, the information (if relevant) relating to these stages of the development, are to be provided to the Authority as part of any future DA's that are lodged.
- It is noted that the ACT Heritage Council and the Conservator of Flora and Fauna requested further information on the impacts associated with the extension of Ginninderra Drive and the extension of the sewer tunnel. The information requested by these entities has been included in conditions of the EIS exemption and will need to be provided to the Authority prior to lodgement of any future development applications.
- As part of the EIS exemption process, a number of recommendations and conditions were identified to further reduce potential impacts of the proposal on the environment. These will be applied through conditions of approval in any subsequent development application.

Background Information

EIS Exemption Process

- An EIS exemption process is not an approvals process. Rather, it is an information gathering exercise about the potential impacts of the proposal.
- A proponent may only apply for an EIS exemption if the expected environmental impacts of a development proposal have been addressed by recent studies.
- The information submitted as part of an EIS exemption application is subject to the same regulatory scrutiny as a draft EIS, including a detailed environmental assessment, statutory public consultation and referral to entities.



ACT Heritage Council

File Reference: Ginnindery Stage 2

Contact Officer: Richard Hekimian

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ACT planning and land authority
Environment, Planning and Sustainable Development Directorate
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To whom it may concern

Request for Exemption from Environmental Impact Statement: Ginnindery Stage 2

Thank you for the opportunity to comment on the application for an exemption from the requirement to complete an Environmental Impact Statement (EIS) pursuant to Section 211 of the *Planning and Development Act 2007* (the Exemption application).

The ACT Heritage Council (the Council) provided advice on the Exemption application on 26 April 2018 (see Attachment A), noting that it did not support an exemption in this form at that time.

The proponent's response to this advice noted that Cultural Heritage Assessments will be prepared when required. However, since April 2018, this information has not been included in a revised S211 EIS exemption application, nor provided by any other means.

Cultural Heritage Assessments, and the statutory mechanisms that ensue such as Statements of Heritage Effects and Conservation Management Plans, provide developers and the Council sufficient information to ensure that the heritage impacts associated with development proposals have been identified and assessed and any adverse impacts avoided or mitigated.

Without the Cultural Heritage Assessments that identify impacts to heritage values, it is not possible for the Council and proponents to understand potential impacts to heritage values associated with a proposal.

It is noted that the purpose of an EIS exemption is to ensure that the work required to understand all impacts has been completed. In this context, granting an exemption on the condition that further work is required to understand potential impacts is not consistent with the purpose of an EIS exemption, disregards previous Council advice, and does not represent an optimal outcome for the conservation of known and potential heritage places and objects.

Conditions:

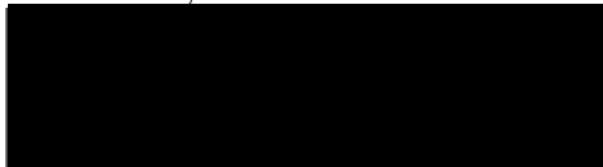
It is the preference of the Council that the Exemption application be revised to address issues identified in the advice issued on 26 April 2018 (Attachment A). The Council is discouraged to see that previous advice has not been taken into account in the form of a revised Exemption application.

Pursuant to this, the only conditions acceptable to Council supporting the Exemption application as it stands are as follows:

- Where damage to Aboriginal places and objects is proposed, *Heritage Act 2004* approvals are to be sought and design amendments made where the Council requires;
- a Cultural Heritage Assessment (CHA) of the proposed West Belconnen Conservation Corridor (WBCC) sewer tunnel is required;
- a CHA of the proposed Ginninderra Drive extension is required;
- a CHA of any currently planned tourist, recreation and bushfire management infrastructure within the WBCC, such as the Stage 1 tracks and trails project is required;
- all required CHAs must be prepared in accordance with *Heritage Act 2004* provisions, the Council's 2015 Cultural Heritage Reporting Policy, or successor policy, and in consultation with Representative Aboriginal Organisations; and
- where a CHA considers the management of cultural places identified in the Waters Consultancy (2017) report, consultation is also required with the cultural knowledge holders as identified in that report.

Alternatively, the proponent may wish to redesign the project to avoid all areas of cultural heritage sensitivity, as aligns with best practice in cultural heritage; however, this will require significant review and re-submission of the Exemption application.

Yours sincerely



David Flannery FRAIA MPIA
Chair
ACT Heritage Council

14 September 2018