

Agency Referral Response Summary – Parkwood (Ginninderry)

(Council response in *italics*)

ACT (Whole of Government)

This submission confirms that the ACT supports the proposal. The preferred option to support the delivery is that the border between ACT and NSW is moved to include the entire Ginninderry development within the ACT's jurisdiction. ACT, NSW and Yass Valley Council will continue to work together to determine the best & most cost effective way to deliver services.

Council will continue to consider and review the local service delivery and infrastructure options and needs to be satisfied that servicing this development will be financially sustainable and not have a negative impact on the balance of Yass Valley ratepayers. Consideration will continue concurrently with the planning process.

Icon Water

Advised that they support the development, however the water servicing arrangement will be contingent on ongoing governance discussions between Yass Valley Council, ACT and the Joint Venture.

Council will continue these discussions concurrently with the planning process.

NSW Police

Advised that there is a long time frame to finalise the policing model, and they wish to remain involved in future consultation.

The response is noted.

NSW Ambulance

Advised that preferred option for service delivery is by the ACT from Aranda or Charnwood.

The response is noted.

NSW Fire & Rescue

Emergency services are best delivered by the ACT. If it becomes necessary to support the ACT with a hazardous material incident or rescue incident through the cooperative agreement, a response will be made from Queanbeyan or Yass.

The response is noted.

NSW Crown Land

Crown Lands is the adjoining landowner of the bed and bank of the Murrumbidgee River and Ginninderra Creek. All current access points must remain and be available to the public. The proposed development must not impact or have any adverse effects on the bed and bank of the waterways or affect flows to or within the waterway.

Should any activities be included that require access or associated management within the waterway, approval must be obtained from Crown Lands. All Aboriginal cultural and heritage values of Crown Waterways should be considered. Any detailed planning within the Conservation Corridor is to include consultation with the Crown.

Discussions in relation to access and management of the river and creek corridor have commenced and will continue with Council and the Conservation Trust. It is not apparent whether the report on Aboriginal Cultural Values has been reviewed by Crown Land, as it considers and makes recommendations regarding cultural values in the river, creek and falls. It is considered

appropriate that an additional requirement be added to the DCP clause that impacts, integration and access to the adjacent Crown Waterways – Murrumbidgee River and Ginninderra Creek be considered.

NSW Education

Education have advised that a new primary and secondary school will be required to service the development. The potential school site shown on Masterplan (Roberts Day) is noted and they support its indicative location opposite playing fields (in ACT). They have requested dedication of a school site at no cost to the NSW Government through inclusion of a Satisfactory Arrangement Clause in the LEP, and preparation of a Voluntary Planning Agreement (Timing of dedication to be discussed further).

Further discussions have been held between Education, Council and the proponent. Given the long lead time, it is proposed to reference the school site dedication within the MOU with Council, as a precursor to any future Voluntary Planning Agreement. The proposed school site location will be shown as an attachment to the MOU. It will also be captured within the proposed Satisfactory Arrangements and Development Control Plan clauses within the LEP.

Transport for NSW

Transport for NSW have assumed that transport services will be provided by the ACT - with cross border service provision and cost recoupment being agreed to between ACT and NSW governments. Recommended Road Safety Guidelines (Austroads) to be used in planning of road infrastructure. Requested mitigation measures be considered for Stockdill Drive between Spofforth Street and the entrance to Ginninderry, to prevent vehicles entering the cycle lane.

Arrangements between ACT & NSW will continue to be negotiated outside the planning process. The application of Austroads guidelines will be required as a matter of course. Traffic management for the ACT portion of the development is to be managed by the ACT government.

NSW Primary Industries – Agriculture

Advised that a buffer of 1000 metres is considered to be an appropriate distance between residential development and a poultry farm as outlined in Chapter 6 of the Living and Working in Rural Areas' handbook (NSW DPI).

It is noted that the DPI handbook recommends a minimum buffer distance of 1000 metres for 'Poultry' Sheds and waste storage. The report prepared by CEE in relation to any egg farm buffer argues that this buffer is more relevant to Broiler (meat) farms. It also makes comparisons to required distances in other states, which range between 500 and 1000 metres.

As the lease of the egg farm expires in 2032 and no development is proposed in the vicinity until that time, increasing the width of the buffer is immaterial. However, if a buffer is being included within the LEP, it should satisfy DPI's requirements. The concern around new (artificial) waterbodies being established in close proximity to the egg farm is unlikely to present a risk given the development timeframe and the proximity to the Murrumbidgee River and Ginninderra Creek.

NSW Office of Environment & Heritage

- The proposal and studies provide enough biodiversity and Aboriginal Cultural Heritage information to inform the proposal and satisfy Ministerial Directions with the exception of Flood Risk Management. Do not consider there is adequate flood risk management information provided. Advised there is a need to prepare a floodplain risk management plan.

Following the initial OEH response, a revised flood risk assessment was prepared by Calibre Consulting. The assessment considered the impacts from both the Murrumbidgee River and

Ginninderra Creek and confirmed that the rezoning for residential development complies with the Ministerial Direction 4.3 and the NSW Floodplain Development Manual.

The report confirms that flooding from the Murrumbidgee is irrelevant as there is at least 35 metres between the PMF level and the adjacent R1 zone. The 1% AEP for flooding of Ginninderra Creek is contained within the proposed E2 and E3 zones, however the PMF event does extend into limited areas of proposed R1 zoning. Calibre notes that essential community facilities and critical infrastructure should not be located within these PMF areas, and consideration given to key access routes through the site.

These development controls would usually be developed and refined through a Flood Risk Management Plan, and the recommendations should be included as a consideration in the future DCP. No further analysis is required at this stage of the planning process.

- Advised that management of the conservation corridor as one continuous area is supported, but requested clarification on the mechanism to dedicate the E2 for conservation purposes.

Conservation Corridor Dedication Heads of Agreements and a MoU have been drafted between the landowners Reid & Stevens, Fleming & Moore and Shaw & Armitage. Land is to be dedicated to Council upon the registration of the first urban subdivision plan.

The landowner of the lot adjacent to the Falls has not entered into a Heads of Agreement to dedicate the land to Council. As such, an additional Satisfactory Arrangement Clause is proposed to be added to ensure the conservation of the E2 Environmental Conservation zone in perpetuity.

If the land is not dedicated, separate biodiversity certification will be required before any development consent is granted. While this locks in the conservation requirements of the E2 land, it does not allow for the generation of income through a levy for its' ongoing management.

The suggestion that the land in the E2 Environmental Conservation zone should be included within the Relevant Acquisition Authority map within the LEP is not supported.

- Raised concerns over ability to create 10 ha lot through Additional Permitted Use provision within key section of conservation corridor (Box 12).

After discussion with the subject landowner, it is proposed to amend the proposed Additional Permitted Use Schedule to clarify that subdivision of the land would only be for the existing dwelling house (i.e. no new dwellings) and the lot area would be between 3 and 5 hectares, with frontage to the Murrumbidgee River.

The agreement with the landowners (Fleming and Moore) also allows the Joint Venture first offer on this lot containing the existing house, and that upon acquisition it be dedicated to Council.

This will improve the connectivity of the conservation corridor until such time as this existing dwelling is acquired to be included within the conservation corridor.

- It agrees that Biodiversity Certification should be pursued.

This will be required as a result of the introduction of the Biodiversity Conservation Act 2016, which has been introduced during this process. The proponent is being encouraged to pursue strategic biodiversity certification of the whole site, well ahead of any development application.

- Recommend inclusion of additional provision in heritage clause (reference to heritage management document) and map in Parkwood LEP.

These recommendations are supported, and it is understood an Aboriginal Heritage Management Plan is currently being prepared.

- Recommended the LEP Biodiversity Map should be updated with PTWL habitat shown in the Capital Ecology Report within the proposed R1 zone.

The EPBC approval considered the loss of PTWL habitat and that it would be offset by required habitat improvement within the E2 Environmental Conservation area, but required the additional survey to confirm the extent and condition of the habitat.

As the Commonwealth EPBC Act and the NSW BC Act have different assessment processes, OEHL have requested that the updated suitable and low mapping of PTWL habitat by Capital Ecology in 2019 outside the development area be included on the LEP Biodiversity Map. This will allow these identified habitat areas to be considered in the Biodiversity Conservation Certification process.

NSW Rural Fire Service

The RFS has raised no objection provided suitable mechanisms are in place to ensure the implementation of the recommendations within the *Strategic Bushfire Assessment* prepared by Eco Logical (February 2019) within subsequent planning phases.

All future stages of development will be required to comply with the relevant provisions of *Planning for Bushfire Protection*, including asset protection zones, access and services. Perimeter roads also need to be incorporated to separate bushland from urban areas.

A draft *Bushfire Management Plan* for the conservation corridor is to be forwarded to the local RFS office for comment. The plan should consider the provision of a fire trail network for firefighting and hazard reduction.

Development consent must not be granted for any subsequent development until such time as a cross border service delivery agreement has been finalised.

In relation to the matters raised by the Ginninderra Falls Association in relation to the inadequacies of the *Australian Standard AS 3959* and *Planning for Bushfire Protection Guidelines*, RFS have advised separately that they cannot be dealt with through this Planning Proposal as they relate to potential changes in RFS organisational policy.

It is proposed to include a specific clause requiring the preparation of a Development Control Plan for each urban release area incorporating controls that relate to a number of matters including bushfire. The wording of this clause should be refined to make specific reference to the Strategic Bushfire Assessment prepared by Eco Logical. The reference to bushfire should also be updated within the proposed Conservation/ Urban Edge Interface clause.

State Emergency Services

The SES advised they had reviewed the flood information provided and acknowledge that due to the plateau of the site and deep gorges of the Murrumbidgee River, there will be little flooding impact from the Murrumbidgee. It was noted that the flood information for the Ginninderra Creek only considered the 1% AEP (Average Exceedance Probability), and did not include information up to and including the PMF (Probable Maximum Flood).

An additional brief report was prepared for the proponents by Calibre in 2019 in response to similar issues raised by OEHL. It states that within development within areas of proposed R1 zone between the 1% AEP should not include essential community facilities and critical infrastructure.

This is consistent with the consideration of the Gundaroo and Sutton Flood Risk Management Plans in 2016, whereby Council resolved that the Flood Planning level be set at 1% AEP event plus 0.5m. As per the Risk Management Studies and Plans, facilities and infrastructure that would be

defined as 'Critical or Sensitive Uses and Facilities' would be restricted and potentially be unsuitable, within areas affected up to and including the PMF.

It is recommended that a requirement be added to the Development Control Plan Clause to include a provision to require any recommendations within a Floodplain Risk Management Study and Plan are included within the future DCP.

Issues Raised by the Community Summary – Parkwood (Ginninderry)

Adjacent Landowners

The concerns of the adjacent landowners relate predominantly to retaining existing vehicle property access (from ACT border to cross Ginninderra Creek), fencing and stock access to Ginninderra Creek which the proponent has agreed to. While these requirements have been requested as conditions of approval, they are unable to be incorporated into the planning proposal. Aside from any private agreements between landholders, these requirements would be more appropriately dealt with through any Development Consent.

Another adjacent landowner raised concerns that their land may be burdened by zoning constraints as a result of this proposal. Land beyond the Ginninderra Creek and Murrumbidgee River curtilage is not included within the proposed Parkwood LEP and as such no changes to zoning of that land are being considered.

There were concerns raised in relation to potential trespassing onto adjacent land in the future. While this is a legitimate concern, it would be a consideration of any future Development Application.

Independent Review and Research Required

The planning proposal was originally lodged with Council in 2014, supported by a substantial body of supporting studies. While the assessments have not been commissioned by Council, studies have been refined, peer reviewed and advice sought from public agencies over a period of five years. It is not appropriate to request public funded academic or scientific site specific research. Likewise, the proposed zones, clauses and permitted uses within the Parkwood LEP have been the result of extensive, detailed discussion between Council, DPIE, state agencies and the proponent.

Reviews undertaken by government bodies are independent, with each agency having particular expertise. Reviews however can only be undertaken against the applicable legislation and standards applicable at a given time. The lengthy assessment period has seen a number of reforms in relation to various NSW standards and provisions such as bushfire and biodiversity. As such, given the development is not due to commence for a number of years, it is likely that additional updated studies will inform the future Development Control Plan and subdivision layouts.

It should be noted that the range and volume of supporting studies that have been undertaken for this development is highly unusual in addition to the work and modelling that has been done with regard to cross border servicing, as well as a funding model for the conservation corridor. The detailed assessments that have been undertaken, for other historical developments have been undertaken at the development application stage or not at all.

Planning Proposal Documentation

The planning proposal document format follows the guidelines from NSW DPIE, and neither it, nor the supporting documents are required to follow the format of a scientific or academic report.

There was criticism around the volume and complexity of material placed on public exhibition. It is acknowledged that the documentation is lengthy, however that is a result of the significant work that has been undertaken on a large and complex development over a number of years. Some of the reports relate to both the development within the ACT and within NSW, as a significant number of matters require the development to be considered holistically.

As the planning proposal was originally lodged with Council in 2014 some of the supporting documents date back to that time, and have some been added to through additional assessments responding to issues raised by referral authorities or required through other approvals (e.g. EPBC). The majority of other documents were not updated and have been available for viewing on the DPIE LEP online portal since 2015, so interested members of the community have had ample time to review them.

Quarry

The land incorporating the quarry is included within the planning proposal, and is bordered by the Ginninderra Creek and Falls to the north, and Murrumbidgee River to the west. The submission on behalf of owner of the existing red gravel quarry relates to concerns around the dedication of the land within the proposed E2 zone and need for adequate compensation.

The extent of the proposed E2 zone is the result of extensive ecological, Aboriginal cultural, bushfire, flooding and visual landscape studies over the land. Financial compensation for land is not a consideration of the Planning Proposal. It has been proposed that the land within the E2 Environmental Conservation zone/ corridor be held in Council ownership in order to facilitate the collection of a levy under the *Local Government Act 1993* to generate an income stream for conservation and maintenance, however it has never been the intention of Council to 'acquire' the land.

The issue of continuation of the quarry under existing use rights has again been raised, however these will not be impacted by the proposed change of land use zoning. The extent of existing use rights has been the subject of differing legal opinions in the past and this a separate matter which is outside the Planning Proposal process.

The issue of land use conflict was noted, particularly conflicts between the proposed Environmental Conservation, SP1 Special Activities and R1 General Residential zones and continued quarry use. It is considered appropriate that additional provisions be included for the quarry within the DCP clause of the proposed LEP in the event that the quarry is still in operation once residential development commences in NSW. It is noted that a clause is already proposed that relates to its rehabilitation prior to development.

Transmission Lines

TransGrid advised that five 330kV transmission easements traverse the site (each being 60 metres wide) which connect the ACT supply to the NSW electricity grid. They are currently accessed off Parkwood Road through private properties. Alternate access to these will need to be considered at subdivision design stage.

TransGrid have noted that the Masterplan indicates a potential use of the easements as a community garden. This may be an issue given trees/shrubs are to be no greater than 4 metres in height as well as the issue of electromagnetic fields. Likewise, this will need to be considered at the subdivision stage.

Conservation Corridor area/width/irregular boundary

Concerns have been raised with the area, width and irregular boundary of the conservation corridor.

The design and area of the conservation corridor has been based on numerous flora and fauna surveys and assessment reports. It was designed to include the important habitat features for the threatened species that occur in the area. The boundary also takes account of the landscape features of slope, terrain and areas of good condition native vegetation.

As a proposed linear corridor following the Murrumbidgee River the shape will be irregular by nature. It applies similar principles identified for the adjoining ACT section of the conservation corridor.

It is consistent with *South East & Tablelands Regional Plan* Action to protect the validated high environmental value lands in local environmental plans. The environmental assessments have also taken account of the criteria and validation rules for mapping high environmental value lands.

The application of Asset Protection Zones (APZ) and interface use and treatments including fencing, passive recreation areas, stormwater management infrastructure and edge road design will form part of the interface management.

The Commonwealth Department of Environment and Energy and the NSW Office of Environment and Heritage have had significant input into the final alignment and area of the corridor, as well as mechanisms to secure and manage the area in perpetuity. The Commonwealth has also issued conditional approval under the *EPBC Act*.

Biodiversity

Concerns have been raised regarding threats to paddock trees and grasslands as well as requests for more comprehensive surveys for State and Nationally listed threatened species. The information provided in the *Strategic Assessment Report* (Umwelt) is intended to be broader in nature, to capture the strategic implications of biodiversity values onsite at this point in the process. A rezoning does not imply permission for any development to proceed that does not meet the requirements for consideration of impacts on biodiversity values.

Since the original lodgement of the Planning Proposal, the *Biodiversity Conservation Act 2016* has come into effect. Despite the ecological assessments and surveys undertaken to date, the development will still be required to satisfy the requirements under this Act. Rather than individual biodiversity assessments being undertaken at the Development Application stage, it is proposed that strategic biocertification be undertaken for the whole site prepared by an accredited assessor under the Act. The Biodiversity Assessment Methodology (BAM) specified under the *Biodiversity Conservation Act 2016* is thorough and specific.

The BAM requires comprehensive surveys of existing vegetation, followed by targeted surveys for any threatened species likely to be present (based on the vegetation and other habitat features onsite). The developer will then need to demonstrate that all care has been taken in the design of the development to avoid and minimise impacts on threatened species.

-Rosenbergs Monitor

Concerns have been raised that the proposal to reduce the current area of E3 Environmental Management zoning, together with more roads, pets etc. risks the survival of this highly mobile species. A submission was received advising documented home ranges of Rosenberg's Monitor on Kangaroo Island between 80 to 1,500 ha.

Discussions with OEH are ongoing in relation to the management of the conservation corridor, particularly for habitat management of threatened species. In relation to the submissions received, Council has been advised that the ecosystem of Kangaroo Island is very different to that of Parkwood, and strong comparisons should not be drawn. More recent work to the south (Fletcher) in the nearby Naas Valley/Murrumbidgee corridor is more relevant with animals being tracked over vast distances of wooded and open country.

Due to the largely open grazing land of the majority of the site, a minimal amount of woody vegetation is proposed to be removed. The proposal includes 213 ha of land to be zoned E2 Environmental Conservation zone and managed within a conservation corridor along

the Murrumbidgee, contiguous with another 383 ha of corridor within the ACT. This area is considered to provide substantial potential habitat for the species.

The concerns around impacts from urban development have been considered particularly through the design of the urban interface and mechanisms such as cat containment. The current proposed wording of the Conservation/Urban Edge Interface subclause h) refers to habitat values only, not specifically addressing impacts of urban development- particularly from vehicles. It is therefore recommended that it be strengthened to include 'corridor fencing and edge road treatments have been provided for within the interface area.'

-Pink Tailed Worm Lizard

An area of Pink Tailed Worm Lizard habitat is proposed to be impacted by future urban development. This was considered under the EPBC approval whereby the loss of that area of habitat will be offset by required habitat improvement within the E2 zone. In addition, another condition of EPBC approval required additional surveys and mapping to be undertaken of Pink Tailed Worm Lizard habitat to confirm the extent and condition of habitat. This work was completed in April 2019, and provided to the Commonwealth, NSW OEH and ACT. As such, it was one of the documents considered when the referral response was drafted by OEH.

As the Commonwealth EPBC Act and the NSW BC Act have different assessment processes, OEH have requested that the updated suitable and low mapping of PTWL habitat by Capital Ecology in 2019 outside the development area be included on the LEP Biodiversity Map. This will allow these identified habitat areas to be considered in the Biodiversity Conservation Certification process.

-Natural Temperate Grassland

The description of natural temperate grassland recently changed and is now broader, however it is likely that areas will be associated with pink tailed worm habitat. The extent and quality of the community within the proposed Urban Release Area is not yet known.

These areas will be assessed through both the Biodiversity Conservation Certification process (NSW) and Defined Process Strategy (Commonwealth) as the development proceeds to ensure unacceptable impacts are avoided. As stated above, the information provided in the Strategic Assessment Report (Umwelt, 2017) is intended to be broader in nature, to capture the strategic implications of biodiversity values onsite at this point in the process. A rezoning does not imply permission for any development to proceed that does not meet the requirements for consideration of impacts on biodiversity values.

Nature Park/Reserve Proposal

The original Ginninderra Falls Association (GFA) national park proposal was initiated in 2011 and covered a larger area taking in land to the west of the Murrumbidgee River as well as an extensive area to the north of Ginninderra Creek, all of which is in private ownership. Requests were made both by the owners of the land adjacent to the Falls and the GFA in relation to acquisition of the land for the establishment of a National Park in 2012-13.

Council did provide *in principle* support to the establishment of a National Park around the Ginninderra Falls in early 2013 prior to any assessment into feasibility of park establishment.

The National Parks and Wildlife Service (NPWS) advised in late 2013 that it was not a priority due to acquisition, establishment and ongoing management costs of the park. It was advised that local resources were better directed to management of existing reserves/parks. This response that another National Park could not be financially supported from NSW NPWS is justified, although the conservation and recreation values of the land were recognised.

The support from OEH (of which NPWS is part of) for the proposed E2 Environmental Conservation and E3 Environmental Management zones indicates the rigour of the ecological and cultural heritage assessments and the proposed Trust arrangement for management of the E2 land. The Trust, guided by the Plan of Management and funded via a levy and a percentage of the sale price would ensure costs for management and conservation were covered.

One of the submissions pointed to a statement in the media that the current NSW Minister for the Environment would be looking to increase opportunities for National Parks. It also referred to the decline in areas added to National Parks since the 1960's. In considering both points raised, the vast amounts added to the National Park system in the 1960's and 70's are unlikely to have been subject to appropriate rigour in the assessment of values or how the management would be funded in perpetuity.

Conservation Corridor Trust

-Focus on excitement and adventure rather than conservation

The area proposed to be managed by the trust is the area within the E2 Environmental Conservation zone which is a result of a number of ecological and Aboriginal Heritage studies which have informed and refined the planning proposal, as an area of significance not to be developed.

The model which has been proposed (and recently established for the ACT component) is based on the report '*An Environmental Trust for West Belconnen*' which considered the relationship of commercial opportunities to conservation goals thereby enabling reserve costs to be covered. The major advantage that this model has over traditional reserve management practices is that an income stream has been planned to overcome the biggest challenge - ensuring financial sustainability.

The assertion that the Trust will focus on excitement and adventure rather than conservation is not supported by the documents provided. The main objectives of the Trust are to deliver conservation, weed, pest animal and bushfire management activities as set out in Plan of Management. It is also intended that there would be a focus on education and research within the corridor.

- Not an excuse to avoid responsibility

The extent of the conservation corridor as well as the management and treatment of the interface with development has been the subject of extensive conversations with Council and OEH. The proposed Trust administration and funding has also been subject to significant discussion, and as a result it was determined that the only way to recoup a levy under the *Local Government Act 1993* (to manage the corridor) from future residents was if Council owned the land within the E2 Environmental Conservation zone.

While the Trust was recently established to manage the ACT corridor land, Council has requested that we be involved from its inception to have input into the early establishment and governance of the Trust, and to develop corporate knowledge of its operation prior to the conservation corridor being established in NSW. The other directors on the board include members from the ACT government, indigenous representatives, future residents and non-residents.

The extensive input and review by OEH and Council into the supporting studies and proposed management arrangements is a clear indication that responsibilities are not being avoided. Furthermore, the proponent needs to comply with Commonwealth approval issued under the *EPBC Act*.

Dedication of the Conservation Corridor

The owners of the lot adjacent to the Falls raised the issue of compensation for the dedication of the E2 Environmental Conservation and SP1 Special Activities zones on their land. Although the NSW corridor is proposed to be transferred to Council ownership, this is only to allow an annual levy to be raised to provide an income stream in perpetuity.

Financial compensation is not a planning consideration as Council is not intending to acquire the land. If the land is not transferred, an alternative mechanism to fund and manage the land will need to be established.

The proposed SP1 Special Activities land is zoned for the Ginninderra Falls Precinct, and is not to be transferred to Council ownership. Any commercial agreement regarding the E2, SP1 or R1 component of the land adjacent to the Falls is outside the planning process.

Bushfire Risk

RFS are the NSW government agency responsible for bushfire hazard management. A *Bushfire Management Strategy* was initially prepared in 2017, and referred to RFS to be considered against the local planning direction -Planning for Bushfire Protection. Advice was also sought on the reports commissioned by the Ginninderra Falls Association Risk Implications of *Dynamic Fire Propagation - a case study of the Ginninderry region and Incorporating ember attack in bushfire risk assessment: a case study of the Ginninderry region*.

The RFS subsequently required additional information in relation to access, special fire protection purpose development and potential conflicts between conservation management and asset protection zones.

As a result of several detailed discussions with the RFS, the *Strategic Bushfire Assessment Report* was prepared by Eco Logical in 2019. It has also considered provisions with the *Planning for Bushfire 2018*, although it has not yet come into effect. The RFS advised that they were satisfied if additional mechanisms were provided for in subsequent stages. It is proposed that this will be incorporated into the Development Control Plan.

In relation to the matters raised by the Ginninderra Falls Association in relation to the inadequacies of the *Australian Standard AS 3959* and *Planning for Bushfire Protection Guidelines*, RFS have advised separately that they cannot be dealt with through this Planning Proposal as they relate to potential changes in RFS organisational policy. Requesting that a decision on this proposal be deferred until the Standard/Guidelines are reviewed would be unfair to this proponent given they apply to all new development in NSW. Should the standards/guidelines be amended (as it is likely they will be), any future subdivision/development designs will be required to be consistent at that time.

A suggestion has been made through the submissions that a direct vehicle access should be provided into NSW for egress. There is adequate area to design multiple access routes via Parkwood Road, Drake Brockman Drive and an extension of Ginninderra Drive. Providing direct vehicle access into NSW would also create other undesirable planning and servicing consequences for Council.

A *Bushfire Management Plan* will be developed for the conservation corridor and it will be required to implement appropriate fuel management techniques, particularly for protection of habitat areas and fire sensitive vegetation (e.g. Callitris Pines). Alternatives such as mechanical or hand slashing and grazing would be considered for these areas.

In addition, the proponent has partnered with CSIRO for bushfire management and continuous improvement of design to manage bushfire risk. This demonstrates that the proponent is

committed to incorporating best practice into the development design, over and above the current standards.

Overlap of proposed SP1 Ginninderra Falls Precinct with Asset Protection Zone

The APZ referred to in the submissions is shown in Figure 20 in the most recent *Strategic Bushfire Assessment* (Feb 2019). This APZ relates to Special Fire Protection Purpose Developments as defined under *Planning for Bushfire Protection 2018* which are occupied by people that may be physically or psychologically less able to evacuate. The Special Fire Protection Purpose Developments which may be relevant to the proposed Ginninderra Falls Precinct, include tourist accommodation or educational establishments. In the event that any of these uses are proposed as part of the precinct development, the buildings for these uses must be located wholly outside the APZ unless an acceptable solution is designed and then approved by RFS.

R1 Zone should not be visible & SP1 zone should be at least 300 metres from the Falls

It is presumed that this suggestion has been made to address the visual separation between the Falls and future development. The range of uses permitted within the SP1 zone are directly related to the facilities you would expect in this location for education and tourism purposes. The 300 metre distance appears to be an arbitrary figure, however the separation of these types of developments may be increased in any event due to APZ's for Special Fire Protection Purpose Developments as discussed above.

The proposed Conservation/ Urban Interface clause includes a provision that Development Consent must not be granted for development unless council is satisfied that the development will not have any significant adverse impact on the ecological, cultural or scenic values of the Murrumbidgee River and Ginninderra Creek.

Retain existing Environmental Zone or Reserve

The subject site has never been set aside as a nature reserve, and all of the land is in private ownership (the site does not include the adjacent Crown Waterways – Murrumbidgee River and Ginninderra Creek/Falls). The land adjacent to the Ginninderra Falls has only ever been open and operated as a commercial tourism venture.

The zoning of the land is currently part RU1 Primary Production and Part E3 Environmental Management. The zoning was transferred from the former 1(a) General Rural and 7(e) Environmental Protection Scenic zone under the now repealed Yarrowlumla LEP 1993 (and 1986 prior to that). The line between the two zones was arbitrary and followed lot boundaries rather than being drawn from evidence based assessments of environmental values. The E3 area currently contains an operational quarry and a large area historically used for extensive agriculture (grazing).

It has been suggested that Council's preparedness to review the application of the E3 Environmental Management zone shows contempt. This assertion is not accepted and Council previously sought to review the application of this zoning through the introduction of the standard instrument LEP in 2013, given this zoning only applies to the former Yarrowlumla area. Council's view at that time was it was inconsistent to apply it to the eastern side of the Murrumbidgee for this limited area only.

The proposed E2 zoning over the proposed conservation corridor will afford a higher level of environmental protection under the LEP for the environmental and cultural values identified and further the limit the range of permitted uses.

The ongoing management and funding of conservation of natural areas is challenging. Being in public (Council) ownership will allow the collection of a levy under the *Local Government Act 1993*, together with a percentage of the sale price of each lot. A Trust has been established

(initially just over the ACT corridor land) to manage the corridor in perpetuity. The proposed model has demonstrated it is sound and financially sustainable.

Aboriginal Cultural Heritage

The Aboriginal archaeological and cultural values have been thoroughly assessed over a number of years. The extent of the proposed E2 Environmental Conservation and E3 Environmental Management zones were enlarged to include all areas of cultural significance identified so no sites of cultural value are located within the proposed R1 General Residential and SP1 Special Activities zone areas. The Ginninderra Falls are culturally significant, however form part of the adjacent Crown Waterway.

Separate to this planning process, the proponent has also established the Ginninderry Aboriginal Advisory Group – including local Aboriginal representatives, to advise on management arrangements for the sites identified on the subject site and on the adjacent Ginninderra Falls.

The cultural heritage reports have been redacted for public release to remove any references to culturally sensitive information. The full versions of the reports were provided to both Council, OEH and ACT Heritage, and the planning proposal has been revised accordingly, including increasing the extent of the E2 Environmental Conservation zone.

The cultural heritage report does make recommendations in relation to other sites of significance outside the subject site, and they are considered for context only within this assessment of the Planning Proposal. Nomination of sites for Aboriginal Places under the *National Parks and Wildlife Act 1974* is a separate process, often instigated by Local Aboriginal Land Council's or groups, and will be dealt with separately.

Unlawful discrimination- no reference to Aboriginal Land or water rights or 'Native title'

There has been concerns raised that Native Title has not been adequately considered within the planning proposal. The land within the planning proposal is freehold, and as such Native Title has been taken to be extinguished.

Local Planning Direction 2.3 Heritage Conservation requires that Planning Proposals must contain provisions that facilitate the conservation of:

(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and

(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

The proposal has suggested inclusion of a heritage conservation clause within the LEP to give effect to the recommendations of the archaeological report (2014) and Aboriginal cultural heritage report (2017). This will be further strengthened by the inclusion of a heritage map and reference to a heritage management document (currently being prepared).

It is therefore unnecessary to refer to the Native Title process over the freehold land within the planning proposal. Accordingly, there is no basis to the argument that the development discriminates against any person on the basis of race.

Intrusion of People, Noise, Light, Weeds & Waste

The urban interface with the conservation corridor has been considered within a number of the planning proposal documents, and this interface area is included on a map within the proposed LEP, as well having a corresponding LEP local clause. Recommendations as to how this area is designed and managed with respect to limiting public access and impact on the corridor include

fencing and road design. Provisions which allow for cat containment over the entire site- rather than just within the conservation corridor, will require legislative amendment.

The first version of the *Plan of Management 2018* for the corridor also outlines the strategies for weed and pest animal management. The establishment of a Trust as well as an ongoing income stream to fund these management regimes is an important element in ensuring the management outcomes are delivered.

Stormwater Quality

The increased stormwater runoff from the proposal and impacts on the Murrumbidgee River and Ginninderra Creek will need to be managed carefully. The Water Sensitive Urban Design Report (AECOM) confirms that there will be an increase in the runoff from the site compared to the current conditions. As a result there may be a small increase in flows to the Murrumbidgee River and Ginninderra Creek. This would however be at the expense of reduced infiltration across the site.

The quality of the stormwater runoff will be the most significant issue to manage. The *Water Sensitive Urban Design Report* advises that water quality challenges differ across the site, with a small number of sub-catchments near the river corridor which pose particular challenges and may have runoff water of poorer quality than other parts of the site. These sub-catchments will require additional revegetation/stabilisation, and drainage structures including streetscape rain gardens and bio-retention systems to improve stormwater quality at these locations. It is also proposed to harvest stormwater for use within the site including within open space areas.

Part of the management requirements within the conservation corridor will be to minimise disturbance which would lead to erosion or sedimentation.

Detailed engineering designs of the stormwater system have not yet been prepared as neighbourhood and urban design planning needs to be progressed further first. Further detailed design will be required to satisfy the proposed Development Control Plan clause.

Cross Border Service Provision – ACT & Yass Valley Burden

It is recognised that servicing the proposed development which can only be accessed via the ACT and is located distant from Yass (where the majority of municipal services are delivered from) will be challenging. The review of options indicates that ACT could be contracted by Council to deliver the majority of local governance services. However, in some instances, NSW legislation or regulations would require amendment to allow the ACT to be considered a 'local authority' or ACT employees to be 'authorised officers'.

In the event that some or all of the services are unable to be delivered by the ACT, Council staff have requested that land be made available for the establishment of a works depot/administration building or waste facility should it be required.

A further forum was also held with NSW and ACT agencies in March 2019 in response to an additional requirement of the Altered Gateway Determination. Some additional servicing considerations were raised, however the preferred options largely remained the same.

It is noted that the ACT has now stated that its preferred option is the border between ACT and NSW be moved to include the entire Ginninderra development within the ACT's jurisdiction.

Yass Valley, NSW and the ACT will continue to discuss the best way forward for service delivery to ensure the most efficient, least risk model for both jurisdictions. This can occur outside the rezoning process.

Development should be considered holistically to the north of the ACT

The *Yass Valley Settlement Strategy* was adopted by Council, and endorsed by DPIE. One of its key recommendations was to not support further urban/residential intensification adjacent to the NSW-ACT border, due to ecological characteristics, cross border servicing and governance complexities as well as potential for unconstrained development sprawl into NSW. The Strategy was very clear as to why Parkwood was excluded, particularly as the land can only be accessed from the ACT, and as such does not undermine the established policy position.

Comparison has been made to existing rural residential developments in the adjacent Queanbeyan Palerang, and that DPIE should support similar developments in the Yass Valley. Council (through the former Rural Lands Planning Committee) made a decision as part of the *Rural Lands Planning Proposal* that a consistent minimum lot size would apply over all rural zoned land in the Local Government Area. For the reasons mentioned above, as well as the policy of directing the majority of additional development to Yass and Murrumbateman, there is no basis to re-consider the minimum lot size, particularly as lots as small as 20 ha can be created with lot averaging under the current provisions.

The suggestion that Parkwood should be undertaken in two stages being rural residential initially, is not supported. Delivering a high quality, master planned development with efficient infrastructure delivery becomes increasingly difficult the more landowners that are involved.

Lots to be created within Corridor and Adjacent to Falls

The Additional Permitted Use (APU) detailed in Table 12 (Text Box 12) of the proposal is to allow the creation of a lot to accommodate the existing dwelling and rural infrastructure (e.g. water tanks). Through discussions with the landowner, it was agreed that the area required should be more specific in the area and configuration, to allow a larger area to be included within the Trust's management sooner and greater connectivity within the corridor. It is recommended that the APU clarify that subdivision of the land would only be for the existing dwelling house (i.e. no new dwellings) and the lot area would be between 3 and 5 hectares only, with frontage to the Murrumbidgee River.

Agreements are proposed between the landowners (of land referred to in box 12) the Joint Venture and Council, to allow the Joint Venture first offer on the residual lot containing the existing house, and that upon acquisition it be dedicated to Council.

The APU detailed in Text Box 14 is to enable the continued use and creation of a lot for the existing tourism, accommodation and function centre only. This APU should however be amended to clarify that a lot containing the existing Ginninderry Homestead development can be created which must include all land within the E3 Environmental Management zone on that lot. This will reduce fragmentation and improve management outcomes for this land which is not proposed to be managed as part of the Conservation Corridor.

Text Box 15 allows the creation of two lots for dwellings in advance of the urban subdivision of the land within the proposed R1 General Residential zone.

It is considered that the provisions around these APU's while recognising the existing development within the E2 Environmental Conservation and E3 Environmental Management zones allow for appropriate management of these areas.

Cat Containment

The need for cat containment was raised by a number of submitters. It is noted that one of the conditions of EPBC approval is the establishment of a cat containment policy across the whole of the ACT – NSW development.

At present there is no legislative mechanism in NSW to establish a Cat Containment area, particularly under the *NSW Companion Animals Act 1998*. Council could establish a 'Wildlife

Protection Area' over the conservation corridor however this would only enable prohibition of cats from the corridor, not the entire development.

This was one of the cross border governance matters raised during the planning proposal process, and Council will continue to advocate for a change to the Act given the long lead time until development commences.

Land ownership/staging

An indicative staging plan is shown in Figure 3 of the Planning Proposal. The consideration of the whole, rather than part of the peninsula has allowed for more comprehensive, integrated planning of future development and supporting infrastructure. Whether the individual landowners agree to sell their land to the Joint Venture or develop themselves, clauses are proposed within the LEP to ensure satisfactory arrangements have been entered into for State and Local infrastructure and securing the conservation corridor. A clause is also proposed which requires a Development Control Plan to be in place prior to the issue of a Development Consent for subdivision of the urban release areas.

Issues relating to ACT land

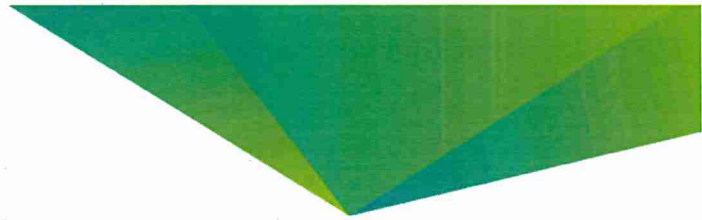
Matters raised relating to the ACT planning process, waste facility/disposal, sewer tunnel and Parkwood Eggs (excepting the proposed buffer) are not part of the consideration of this Planning Proposal and are a matter for the ACT government. Likewise, issues around offset areas that have been provided for the ACT portion of the development, namely Jarramlee and Lot 2 Wallaroo Road have no bearing on this proposal. There is no reason to consider that any of these would influence the future residential development of the NSW portion.

The buffer from the egg farm has been considered and recommended to be increased as per NSW DPI advice.



ACT
Government

Suburban Land
Agency



Ms Liz Makin
Strategic Planning Manager
Yass Valley Council
PO Box 6
YASS NSW 2582

Dear Ms Makin

Ginninderry Project – Rezoning of Land Within New South Wales

As you are aware, the Australian Capital Territory has entered into a joint venture agreement with Riverview Developments (ACT) Pty Limited (**Riverview**) to carry out the Ginninderry Project, being a cross-border urban development comprising up to 11,500 home sites and associated urban facilities on land within the ACT and NSW. The Suburban Land Agency (SLA) is the agent of the Territory in respect of the joint venture.

I understand the land within NSW on which the Ginninderry Project is to be carried out has been sought to be rezoned to facilitate the Project. The ACT Government has previously expressed support for the proposal to rezone the land by way of a letter from the Chief Minister to you dated 2 May 2019. I also note that the 2019 ACT-NSW Memorandum of Understanding for Regional Collaboration currently being negotiated between the Territory and NSW Governments proposes a Parkwood Urban Release Area Governance Framework. I am informed that the Framework will serve as a mechanism between Yass Valley Council, NSW and ACT Governments for the ongoing cooperation and governance arrangements and service model for the provision of services and infrastructure in the proposed urban release area which is the subject of the rezoning proposal.

Riverview has advised the SLA that in order to progress the rezoning, Yass Valley Council (YVC) and the Department of Planning, Industry and Environment (DPIE) require certain commitments from the owner of the land in NSW, Reid & Stevens Pty Ltd, in respect of servicing of any future urban development made permissible by the rezoning and the future dedication of land, in particular, the dedication to YVC of a conservation corridor.

In light of this, Riverview has advised the SLA that a proposed Memorandum of Understanding (MOU) has been prepared between Riverview, Reid & Stevens Pty Ltd and YVC under which the parties to it will commit to:

- negotiating in good faith the entry into planning agreements within the meaning of the *Environmental Planning & Assessment Act 1979 (NSW)* (EPA Act); and
- dealing with the various matters set out in the proposed HoA including the provision of public infrastructure and the dedication of land.

I also note that the proposed Heads of Agreement between YVC, Riverview Developments and landowners Moore and Fleming includes a provision that should the subdivision of the Moore and Fleming land create a residual lot containing the existing dwelling on the site, that the Joint Venture would have the first right of refusal to acquire this lot. This provision is also supported by the ACT Government.

The ACT Government will follow the rezoning process with interest, and I will make myself or my staff available should Council wish to clarify any matters. In line with the Regional Collaboration MOU, the ACT Government looks forward to working with Council on the governance arrangements for the provision of services and infrastructure associated with the rezoning.

Please contact me on 02 6205 0600 should you wish to discuss further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Dietz', with a stylized, cursive script.

John Dietz
Chief Executive Officer
8 October 2019