



**CONSERVATION
COUNCIL** ACT REGION

Submission to Chief Planning Executive: Denman Prospect 2 Estate EIS Exemption

February 2022

The Conservation Council ACT Region is the peak non-government environment organisation for the Canberra region. Since 1981, we have spoken up for a healthy environment and a sustainable future for our region. We harness the collective energy, expertise and experience of our more than 40 member groups to promote sound policy and action on the environment.

We campaign for a safe climate, to protect biodiversity in our urban and natural areas, to protect and enhance our waterways, reduce waste, and promote sustainable transport and planning for our city. Working in the ACT and region to influence governments and build widespread support within the community and business, we put forward evidence-based solutions and innovative ideas for how we can live sustainably.

At a time when we need to reimagine a better future, we understand that the changes we need will only happen with the collective support of our community.

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Introduction

The Conservation Council ACT Region welcomes the opportunity to provide feedback to the Chief Planning Executive regarding the application for an EIS exemption at Block 12, Section 1, Denman Prospect; otherwise known as the 'deferred area'.

We do not support the EIS Exemption being granted based on this application as it does not sufficiently consider the area's ecological values or adequately consult the public. The area's high environmental values warrant consideration of avoidance, mitigation and offset measures, and therefore moving to a full EIS process is justified.

This position is consistent with the Conservation Council's submissions to previous consultations regarding development at Molonglo. Specifically, in 2008 we made a submission to the *Molonglo Draft Terms Strategic Assessment* consultation, calling for planning protection to be provided to endangered vegetation, threatened species habitat, and areas essential for maintaining connectivity. Additionally, we called for detailed mapping of matters of national environmental significance within the Molonglo, including the deferred area.

In 2010, we made a submission to the *Consultation on the Molonglo Draft Strategic Assessment Report*, where we called for the protection of woodland areas from direct and indirect development impacts and the requirement of adequate buffer zones. We also noted the importance of Molonglo for locally significant environmental matters such as raptors and woodland birds, arguing that they should also be considered and protected.

Notably, in 2016 we made a submission to the consultation on the *EIS exemption for Molonglo Western Edge Deferred Area* and found that an EIS was required to explicitly outline impacts on biodiversity values and matters of national environmental significance. We also called for Strategic Fire Fighting Advantage Zones to be outside of nature reserves to lessen impacts on environmentally significant sites.

If it would be of assistance to the Chief Planning Executive, copies of these submissions can be provided.

Ecological Values

The Landscape Value of the Deferred Area

The environmental values of the deferred area have failed to be considered in a landscape context by the application as evident by the fact that the Environmental Impact Assessment (EIA) only studied the deferred area and a buffer ranging between 40m and 90m around its southern and eastern sides.¹ This is significant because the deferred area (Block 12) exists within an area of high ecological value that stands to be negatively impacted by its development.

The area, known as Bluetts Block - Piney Ridge (consisting of, Stromlo Blocks 402 and 403, and Denman Prospect Section 1, Block 12) has high environmental conservation values, and the community has called for it to be granted reserve status.² Two ecological communities are found at Bluetts Block - Piney Ridge; Dry Forest with a shrubby-healthy-grassy ground layer, and Box-Gum Woodland.³ The latter is of particular importance as it is critically endangered under the EPBC Act and ACT legislation,⁴ meaning that it is not only locally significant but nationally.

These ecological communities are important for the same reasons that all natural areas are important: they provide habitat for threatened and rare species, store carbon,⁵ increase soil, air, and water quality,⁶ support pollination,⁷ control diseases,⁸ and increase the livability of the city.⁹ However, Bluetts Block - Piney Ridge has a heightened importance and conservation value due to its quality habitat and high diversity.¹⁰ Indeed, it is likely to support many threatened and rare species, most notably, rare marsupial populations of Dunnart and Antechinus, Superb Parrots, and other threatened and rare woodland birds, including the:

- Painted Buttonquail (*Turnix varius*)
- Gang-gang Cockatoo (*Callocephalon fimbriatum*)
- Chestnut-rumped Heathwren (*Hylacola pyrrhopygia*)
- Speckled Warbler (*Pyrrholaemus sagittatus*)
- Southern Whiteface (*Aphelocephala leucopsis*)

¹ Capital Ecology, *Proposed development within the s.211 Deferred Area of Denman Prospect 2 Estate – Ecological Impact Assessment Capital Ecology project no. 3072*, 2021.

² Craig Allan, *Calls grow to spare historic 'Blewitt's Block' from development in Canberra's Molonglo Valley*, 2021.

³ R. Rehwinkel, *Vegetation Survey of Bluetts Block*, 2019.

⁴ Nature Conservation (Yellow Box – Blakely's Red Gum Grassy Woodland) Conservation Advice 2020; Natural Temperate Grassland of the South Eastern Highlands; White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland National Recovery Plan.

⁵ D. Lindenmayer and M Vardon, *Ecosystem accounts in box gum grassy woodlands*, 2021.

⁶ P. Smith et al, *The role of ecosystems and their management in regulating climate, and soil, water and air quality*, 2012.

⁷ A. Vanbergen *Threats to an ecosystem service: pressures on pollinators*, 2013.

⁸ K Zimmer, *Deforestation is leading to more infectious diseases in humans*, 2019

⁹ Jacobs et al. *Livability: Natural environment*, 2014

¹⁰ R. Rehwinkel, *Vegetation Survey of Bluetts Block*, 2019.

- White-winged Triller (*Lalage tricolor*)
- Varied Sittella (*Daphoenositta chrysoptera*)
- Rufous Whistler (*Pachycephala rufiventris*)
- Dusky Woodswallow (*Artamus cyanopterus*)
- Scarlet Robin (*Petroica boodang*)
- Flame Robin (*Petroica phoenicea*)
- Eastern Yellow Robin (*Eopsaltria australis*)
- Diamond Firetail (*Stagonopleura guttata*)
- Double-barred Finch (*Stizoptera bichenovii*)

The site also plays an important role in connectivity, a conservation principle that recognises that habitats and species survive and adapt better when they form part of a protected network. Bluetts Block - Piney Ridge plays a critical role in connecting the Murrumbidgee Corridor, Kama Nature Reserve, Pinnacle Nature Reserve, Stoney Creek Reserves, and beyond.

Urban development at the deferred area (Block 12) will have both direct and indirect impacts on the ecological values across Bluetts Block - Piney Ridge. Notably, the deferred area will suffer a direct loss of habitat from the proposed development. Bluetts Block - Piney Ridge as a landscape will also suffer indirect effects such as urban edge effects, augmenting exotic plant and animal infestations, noise and light pollution, habitat fragmentation, and increased bushfire risk.¹¹

The current EIS Exemption Application fails to identify the deferred area's value within the landscape context of Bluetts Block - Piney Ridge. Further research must be conducted to determine these values, including a review of all ACT Government assessments of Stromlo Blocks 402, 403, and Denman Prospect Block 12; and consultation with the Conservator of Flora and Fauna.

Recommendations

- Study the impacts of development on the deferred area within a landscape context prior to considering an EIS Exemption; including a review of all ACT Government assessments of Blocks 402, 403, and 12; and consultation with the Conservator of Flora and Fauna.

Unresolved Scientific Uncertainty with Regard to Box-Gum Woodlands

It is noted that previous development applications for the deferred area have been dismissed due to 'scientific uncertainty'. The precautionary principle, to which ACT planning law subscribes, outlines that protective action should be supported before there is complete scientific proof of a risk. It is evident that the current EIS application attempts to cure this scientific uncertainty by providing a recent EIA; however, this study is at odds with recent

¹¹ Smith, Peter & Smith, Judy. (2010). *Urban edge effects in the Blue Mountains, New South Wales: implications for design of buffers to protect significant habitats*. Pacific Conservation Biology. 16. 92-100. 10.1071/PC100092.

independent ecological evaluations of the site, and previous evaluations of the site, demonstrating that the scientific uncertainty is still prevalent.

Notably, the EIA report finds that “the vegetation in the study area is now characterised by a relatively intact dry sclerophyll forest of moderate to high diversity on the upper slopes of the ridge, and a highly disturbed open woodland with scattered remnant and regenerating eucalypts in the low-lying areas”. However, recent assessment of the area found that much of the deferred area fulfils the criteria of EPBC-listed Box-Gum Woodland, or in some parts is likely to be rehabilitated to that community.¹² This finding is consistent with a 2016 study of the area, completed by Canberra Town Planning that found moderate quality Box-Gum Woodland is present in the deferred area.¹³

We note that the EIA considers vegetation at the site in 3 zones. We appreciate the notion that habitat quality improves up the ridgeline and we also appreciate that the urban design attempts to preserve the highest quality areas; however, we are concerned that the presence and extent of Box-Gum Woodland is not accurately represented in the assessment. Indeed, site evaluations have found that PCT-ACT25-Zone 2 falls under the definition of the Box-Gum Woodland and parts of PCT-ACT16-Zone 2 also fall under the definition of the Box-Gum Woodland.

As a critically endangered ecological community, protection of Box-Gum Woodland from both the indirect and direct effects of development is important. The juxtaposing results generate significant scientific uncertainty and as such the EIS Exemption Application must not progress until this is resolved. Further vegetation surveys should be completed and the application adjusted accordingly. The fact that the EIA relies on limited studies, namely only two days in autumn 2020 and three days in spring 2021 further supports this conclusion.

Recommendations

- Conduct further surveys of the vegetation across the deferred area to address scientific uncertainty.

Threatened Species Supported by the Deferred Area

The Environmental Impact Assessment (EIA) that the application relies upon notes that the following threatened species are either confirmed, moderately likely, or highly likely to be directly supported by the deferred area:

- *Leucochrysum albicans* var. *tricolor*; Hoary Sunray
- *Climacteris picumnus victoriae*; Brown Treecreeper (eastern subspecies)
- *Daphoenositta chrysoptera*; Varied Sittella
- *Hieraaetus morphnoides*; Little Eagle
- *Petroica boodang*; Scarlet Robin

¹² R. Rehwinkel, *Responses to the Section 211 Exemption Application Report, Deferred Area, Denman Prospect, 2022*.

¹³ Land Environment Agency, *EIS exemption for Molonglo Western Edge Deferred Area, 2016*.

- *Polytelis swainsonii*; Superb Parrot

We support the species identified in this list, however, we are concerned that it is incomplete as it is inconsistent with other surveys. As discussed above, further investigation into the value of the area within a landscape context must be conducted. In addition, the direct impact that development of the deferred area will have on these threatened and rare species must also be identified.

Superb Parrot (Polytelis swainsonii)

Of particular concern is the Superb Parrot which has been identified as “moderately” likely to be impacted by the development because it “may occasionally forage within the study area”.¹⁴ This assessment is not consistent with reports by ecologists and ornithologists who have recently visited the site, and fails to provide contemporary information about the current use of both the deferred area (Block 12) and surrounding areas by Superb Parrots. Whilst the study has assessed records of sightings by the ACT Government and those listed on Canberra Nature Map, it has not undertaken targeted surveys of the species which is problematic as there have been major changes in Superb Parrot breeding behaviours within the ACT in recent years.

Superb Parrots are known to be increasing across the ACT region. It is reported that there is an interchange between breeding areas in Canberra’s Western Edge, and Central Molonglo. As the deferred area is immediately adjacent to the Western Edge and has many mature trees with hollows suitable for Superb Parrots,¹⁵ it is reasonable to hypothesise that it likely plays a role in supporting Superb Parrot breeding. This is not recognised by the application or in the associated EIA.

Considering this, a contemporary, targeted assessment of Superb Parrots over a breeding season should be undertaken to properly evaluate threatened species within the deferred area. Further research is required into this species, as it is listed as vulnerable under the EPBC Act, making it both locally and nationally significant.¹⁶

Woodland Birds

Woodland birds, in general, have also been underrepresented in the EIA that underpins the application. Over 130 bird species have been recorded at Bluetts Block - Piney Ridge, which suggests that the deferred area supports a high diversity of birds, those of particular conservation concern are listed above in reference to the landscape value of the area.¹⁷ A 2016 study of the deferred area identified 29 species of birds, including two EPBC listed species, the Scarlet Robin and Satin flycatcher.¹⁸ Notably, discussion of the Satin Flycatcher is absent from

¹⁴ Capital Ecology, *Proposed development within the s.211 Deferred Area of Denman Prospect 2 Estate – Ecological Impact Assessment Capital Ecology project no. 3072*, 2021.

¹⁵ Ibid.

¹⁶ Threatened Species Scientific Committee (2016), *Conservation Advice Polytelis swainsonii superb parrot*, Canberra Department of the Environment.

¹⁷ Ebird, *Bluetts Block - Piney Ridge*, 2022.

¹⁸ Land Environment Agency, *EIS exemption for Molonglo Western Edge Deferred Area*, 2016.

the current EIS Application. The conservation of these species is increasingly significant as research indicates that woodland birds are showing significant declining trends.¹⁹

Despite a high likelihood of woodland bird diversity, the EIA failed to adequately research low-lying areas of the site. This is problematic as many species of woodland bird, such as the White Winged Triller and Scarlet Robin prefer these areas. Furthermore, there is no detailed assessment for individual species of conservation concern, nor have sufficient surveys for birds across all seasons been undertaken.

Neither the EIS Application nor the EIA adequately considers the loss of mature trees, a key threatening process in the ACT.²⁰ This is highly concerning as 15 mature trees are proposed to be removed for the development to proceed, however, there is no discussion of what impact this will have on local bird populations. Mature trees should be maintained to support bird populations.

It should also be noted that four ACT woodland bird species (Diamond Firetail, Southern Whiteface, Hooded Robin, Brown Treecreeper) are currently proposed for EPBC listing³. Considering this, the precautionary principle should be applied to manage these birds as if they were listed under the EPBC Act.

Recommendations

- Further assessment should be undertaken to investigate:
 - Superb Parrot breeding;
 - Woodland bird populations across Bluetts Block - Piney Ridge, especially in low-lying areas.
 - The impacts of development within a landscape context.
- Conditions should be set around the protection of mature trees prior to the EIS Exemption being granted.

Insufficient Detail to Assess the Environmental Impact

For an EIS Exemption Application to succeed the Minister must be satisfied that there is sufficient detail to allow assessment of the environmental impacts likely to occur if the proposal proceeds.²¹ The current application does not provide adequate information about the nature of the urban development that is proposed for the deferred area, and thus the potential impacts are unable to be clearly determined.

¹⁹ Long-term trends in ACT woodland birds 1998-2019 (Bounds et al 2021).

²⁰ Nature Conservation (Loss of Mature Native Trees) Conservation Advice 2018.

²¹ *Planning and Development Act (ACT)*, s211H(3)(b).

The potential environmental impacts of development on Bluetts Block - Piney Ridge may greatly vary depending on the type of development that sits at the edge of the area. For example, a high-density apartment block might have a far greater environmental impact through noise, and light pollution than an urban greenspace. It would be helpful for the EIS exemption to ensure that urban edge effects are accounted for and provide guidance in the development of the estate development plan when it is developed and finalised.

Recommendations

- Conditions in the EIS Exemption should guide the creation of the estate development plan with regards to urban edge effects and buffers.

Failure to Engage the Public

The EIS application report notes that no specific public consultation accompanied this application on the basis that previous public consultation has occurred. However, recent research has led to considerable community concern for the welfare of Bluetts Block - Piney Ridge; furthermore, as decisions regarding the deferred area have been excluded until now, it is reasonable to assume that previous consultation did not focus on the site.

The Conservation Council ACT Region raised concerns with the proponent regarding consultation, to which they indicated that this current EIS exemption process is the formal public engagement process. They also indicated that they were open to ongoing conversations with the community about the proposals and the EIS Exemption. This is welcome, and stakeholders will be pleased to share their knowledge and expertise on biodiversity issues throughout the process.

However, there are severe limitations to the public engaging with the EIS Exemption process that results in it being unsuitable as the primary form of public consultation. Specifically, the report and associated documents supplied with the application are technical and unlikely to be accessible for people without a background in Environmental and Planning Policy. Indeed, the Conservation Council has received reports from stakeholders who have raised their concerns about being unable to fully understand the documents. Furthermore, the consultation occurred over the January holiday period when the community are likely to have been focussed on other things.

Recommendations

- Further formal public consultation should occur prior to this EIS Exemption being considered as this is an issue of great public concern.

Notable Ecological Values Warrant a Full EIS Process

We note that both the EIS process, and, EIS Exemption process, are procedurally similar and hold the standard of scientific knowledge to a similarly high level, specifically the EIS process considers “all environmental impacts”,²² and the exemption process considers “expected impacts”.²³ For either of these requirements to be fulfilled the above outlined surveys would have to be undertaken.

Unlike an EIS Exemption process, however, the EIS process outlines that “avoidance, mitigation and offset measures” must be also considered.²⁴ Considering the high ecological values at Bluetts Block - Piney Ridge, a full EIS process would ensure that mitigation and offset measures are prioritised. For example, as the value of Bluetts Block - Piney Ridge can be likened to Black Mountain Nature Reserve²⁵ and Kama Nature Reserve, consideration of mitigation measures would include establishing a substantial buffer between areas of ecological value and proposed urban development. At Kama, this was set as a 200m buffer from trees that are home to woodland birds.

Recommendations

- Conduct a full EIS process in order to identify avoidance, mitigation and offset measures.
- Maintain a buffer between areas of ecological value and the proposed urban development, to protect the high biodiversity values at Bluetts Block - Piney Ridge.

²² EPSDD, Environmental Impact Statements, 2022: see:

https://www.planning.act.gov.au/development_applications/da_assessment/environmental_assessment/environmental_impact_statements#:~:text=An%20EIS%20details%20the%20anticipated,consequences%20of%20a%20proposed%20development.

²³ Planning and Development Act (ACT) s211H (2).

²⁴ EPSDD, Environmental Impact Statements, 2022 see:

https://www.planning.act.gov.au/development_applications/da_assessment/environmental_assessment/environmental_impact_statements#:~:text=An%20EIS%20details%20the%20anticipated,consequences%20of%20a%20proposed%20development.

²⁵ R. Rehwinkel, *Vegetation Survey of Bluetts Block*, 2019.

Summary

The application for an EIS Exemption at Block 12, Section 1, Denman Prospect; otherwise known as the 'deferred area' is unable to be used to assess the environmental impacts associated with development at Denman Prospect Estate 2. Specifically, the application is insufficiently detailed, and does not sufficiently consider the ecological values of the area or adequately consult the public.

For the application to progress it must ensure that the biodiversity values at Bluetts Block - Piney Ridge are protected.

Summary of Recommendations

- Study the impacts of development on the deferred area within a landscape context prior to considering an EIS Exemption; including a review of all ACT Government assessments of Blocks 402, 403, and 12; and consultation with the Conservator of Flora and Fauna.
- Conduct further surveys of the vegetation across the deferred area to address scientific uncertainty.
- Further assessment should be undertaken to investigate:
 - Superb Parrot breeding;
 - Woodland bird populations across Bluetts Block - Piney Ridge, especially in low-lying areas.
 - The impacts of development within a landscape context.
- Conditions should be set around the protection of mature trees prior to the EIS Exemption being granted.
- Conditions in the EIS Exemption should guide the creation of the estate development plan with regards to urban edge effects and buffers.
- Further formal public consultation should occur prior to this EIS Exemption being considered as this is an issue of great public concern.
- Conduct a full EIS process in order to identify avoidance, mitigation and offset measures.
- Maintain a buffer between areas of ecological value and the proposed urban development, to protect the high biodiversity values at Bluetts Block - Piney Ridge.