

Representation for Current Development Application - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time

Reference code

02 Aug 2023 11:50:02 PM

94M9CGVF

Thank you for your representation regarding development application number: 202341697

The issues raised in your submission will be taken into consideration during the assessment of the development application and you will be notified in writing once a decision has been made.

Section 156(2) of the Planning and Development Act 2007 states that a representation about a development application must be made during the public consultation period for the application. If your representation was made outside the public consultation period it cannot be considered during the assessment of the application.

Please Note: A copy of your representation will be forwarded to the development application applicant and can be released to the public only on request, unless you have requested and been granted an exemption.

Access Canberra Environment and Planning
Directorate

GPO Box 158
Canberra City ACT 2601

Phone: (02) 6207 1923

Representor details

Title	Given name *	Family name *
Ms	Tara	Ward
Organisation name		
Animal Defenders Office Inc.		
Enter at least one phone number: *		
Home phone number	Work phone number	Mobile number
		0428416857
Email address *		
tara@ado.org.au		

Development details

Development application number *			
DA	202341697		
Suburb *	Section *	Block *	Unit
STRATHNAIRN	37	2	

Representation

Provide the details of your representation *

The Animal Defenders Office ("ADO") is a community legal centre that specialises in animal law. The ADO is incorporated in the Australian Capital Territory (ACT). The ADO is a registered charity and a member of Community Legal Centres Australia Inc. The ADO's office is located in the ACT.

The ADO makes the following submissions about the proposed development located in the Ginninderry Conservation Corridor (GCC) on Part Blocks 2 and 5 Section 37 Strathnairn, Part Block 1 Section 3 Macnamara, and Part Block 1640 Belconnen ("proposed development"). The ADO's submissions are based on the Ecological Impact Assessment ("EIA") dated 1 May 2023 and prepared in support of the proposed development.

The key aim of the EIA is:

"To identify and assess the likely impacts of the proposed development upon habitat for terrestrial flora and fauna species and ecological communities listed as threatened under EPBC Act and/or the ACT Nature Conservation Act 2014 (NC Act) and ensure that those impacts are compliant with all relevant legislation, regulations, and existing approvals and conditions." (p2)

While this is a laudable aim, the EIA is seriously flawed from an animal welfare perspective. The problem is that the EIA fails to address the likely impacts of the proposed development upon other native terrestrial fauna that is protected under ACT nature conservation laws but that does not have the status of 'threatened' ("other fauna"), or the habitat of such other fauna. By way of example, other fauna includes sentient mammals likely to occur in the development area such as wombats, possums, and macropods. Wombats are of particular concern because they live underground in burrows.

Particular concerns re other fauna

Habitat of other fauna

In terms of the habitat of other fauna, it is not in dispute that the proposed development will have 'unavoidable residual impacts to NC Act native vegetation' and an impact on 'native vegetation and habitat adjacent to the development footprint' (EIA p12). In terms of indirect impacts, the EIA states that they 'may occur in the short-term during the construction phase of the proposed development and in the long-term during the operation phase of the proposed development' (EIA p12; p20). It is therefore highly likely that the habitat of other fauna will be both directly and indirectly impacted. Such impacts would include, for example, demolition of fauna habitat such as trees and burrows, bisecting or separating habitat areas by roads or tracks, and increased noise, vibration, and dust during construction.

Fauna surveys

While the EIA states that pre-clearing site surveys for threatened fauna 'will be conducted during the appropriate season for each species and before construction begins' (EIA pp13-14), this is obviously limited only to those species that are threatened and does not account for other fauna that has the potential to occur in the development footprint. A further limitation is that the surveys 'will be restricted to those areas that will be directly impacted by the proposed development' (EIA p14), and therefore will not occur in areas that are indirectly impacted.

Fauna rescue procedures

When fauna may be found as a result of a survey, it is not clear what rescue procedures will be in place before construction commences and until construction is completed. The EIA simply states that a Construction Environmental Management Plan will be developed and will include such procedures (p13). It is therefore not clear who will be responsible for carrying out such procedures, what licences or permits will be required, and in what circumstances (if any) fauna may be euthanased (an extremely specialised skill).

ADO submissions

1. In light of the above concerns, the ADO submits that insufficient information exists to determine the impact of the proposed development on sentient native fauna and associated ecological communities and that therefore the proposed development should not be approved in its current form.
2. The ADO submits that, before approval can be considered:
 - (a) the scale of the impact on all native fauna and associated ecological communities and habitat must be determined, and
 - (b) avoidance measures, minimisation and mitigation measures, habitat enhancement and connectivity, and other ongoing protection and management measures must be devised and put in place to address the scale of the impact.
3. The ADO submits that a document equivalent to a Fauna Management Plan ("FMP") should be required and completed before the proposed development be approved. FMPs are routinely required in NSW for major development projects. FMPs provide a description of the faunal biodiversity values of a demolition footprint and site, and measures to be implemented to avoid and minimise impacts on those values.
4. The ADO submits that rescue procedures for other fauna must be determined before the proposed development can be approved. It must also be determined who is going to carry out such work, what licences are required (eg nature conservation licences granted under the Nature Conservation Act 2014 (ACT)), and what conditions should be attached to the licences eg requiring access to veterinarians and compliance with the Animal Welfare (Welfare of Native Wildlife – Rescue, Rehabilitation and Release) Mandatory Code of Practice 2023.
5. In relation to licences, the ADO submits that consideration be given to amending ACT law to require

specific licences for use in this context. The ADO notes that in other jurisdictions specific licences such as 'spotter/catcher' licences are granted to persons with the necessary expertise to be able to undertake this highly skilled work. For example, in Queensland the 'rehabilitation permit (spotter catcher)' allows appropriately qualified and skilled people to take an authorised animal from the wild if the animal's habitat will be destroyed by human activity (Nature Conservation (Animals) Regulation 2020 (QLD) s200(b)). The ADO also notes that in NSW activities involving fauna impacted by developments, such as wildlife survey work, require a licence under the Animal Research Act 1985 (NSW) (confirmed in correspondence with the Animal Research Review Panel).

6. Finally, the ADO submits that pre-clearing site surveys for all native species in areas that are likely to be both directly and indirectly impacted by development should be conducted to help mitigate the impacts on those species. These surveys should be modelled on the site surveys proposed for threatened flora and fauna species (EIA, p31, Appendix A: Conditions associated with the planning and environmental approvals, conditions 2.1, 2.2, 3.8).

Thank you for the opportunity to make representations in relation to the proposed development.

Tara Ward
Managing Solicitor (volunteer)
Animal Defenders Office Inc.
GPO Box 2259
Canberra ACT 2602

You may upload any additional supporting documentation or photos.

[DA-202341697 - ADO submissions.pdf](#)

[Click here for more information on applying for exemption from the public register.](#)