

## Order conferring biodiversity certification – Ginninderry

Under section 8.2 of the *Biodiversity Conservation Act 2016*

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Under section 8.2 of the Act, I Ingrid Emery, Executive Director, Regional Delivery, Biodiversity, Conservation and Science, Department of Climate Change, Energy, the Environment and Water confer biodiversity certification on the Certified Land.

Under section 8.7(1) of the Act, I am satisfied having considered the Biodiversity Certification Assessment Report, that the approved conservation measures under the Biodiversity Certification adequately address the likely impacts on biodiversity values of the Biodiversity Certification of the Land.

Under section 8.3 of the Act, and clause 8.1 of the Regulation, I specify the measures listed in Schedule 3 of the Order as approved conservation measures under this biodiversity certification.

Under section 8.3(3) of the Act and clause 8.1 of the Regulation, I specify the measures listed in Schedule 4 of the Order as other approved measures.

Under section 8.8(2) of the Act, I am of the opinion that the clearing of native vegetation and loss of habitat on the Certified Land is not likely to have Serious and Irreversible Impacts on the threatened species in Schedule 6 of the Order.

Under section 8.9(1) of the Act, I identify the parties to the biodiversity certification in Schedule 7 of the Order.

Under section 8.2 of the Act, I determine that biodiversity certification of the specified land is to take effect from the date of publication of this order in the NSW Government Gazette and is to remain in force indefinitely pursuant to section 8.10 of the Act.

Under section 8.12 of the Act, the Order will be reviewed every 5 years or at the discretion of the Minister.



**Ingrid Emery**  
**Executive Director, Regional Delivery**  
**Department of Climate Change, Energy, the Environment and Water**  
as a delegate of the Minister for the Environment

Signed this 13 day of July 2024

## Definitions

In this Order:

“**Act**” means the *Biodiversity Conservation Act 2016* (NSW)

“**Approved Conservation Measures**” means any of the measures set out at section 8.3(2) of the Act.

“**Biodiversity Certification**” has the same meaning as in section 8.2 of the Act.

“**Biodiversity Certification Agreement**” means the agreement entered into between the Minister and Riverview Projects (ACT) Pty Limited (ABN 30 165 870 539) of Unit 3, 28 Bougainville Street, Manuka ACT 2603 in its capacity as agent for and on behalf of the West Belconnen Joint Venture Participants (severally but not jointly) in accordance with their respective participating interests in the West Belconnen Joint Venture, Suburban Land Agency (ABN 27 105 505 367), and Gary Barrett Armitage and Edward James Shaw as tenants in common in equal shares and includes any successors in title.

“**Biodiversity Certification Assessment Area**” means the area identified as such on the map at Schedule 2 of this Order and identified in the Biodiversity Certification Assessment Report.

“**Biodiversity Certification Assessment Report**” means the biodiversity certification assessment report within the meaning of the Act dated 6 September 2023 prepared for the purposes of the application for this Biodiversity Certification.

“**Biodiversity Credit**” means a biodiversity credit created under Part 6 Division 4 of the Act and includes a reference to an Ecosystem Credit and a Species Credit.

“**Certified Land**” means the land described in Schedule 1 and marked as “Certified Land” on the map in Schedule 2 of this Order.

“**Department**” means the NSW Department of Climate Change, Energy, the Environment and Water and any name it may be known by in the future.

“**Minister**” means the Minister of the State of New South Wales administering the Act and includes his or her successors in office and where relevant to the context includes the servants and agents of the Minister.

“**Order**” means this order made by the Minister (or delegate) to confer Biodiversity Certification in accordance with section 8.2 of the Act.

“**Other Approved Measures**” means any of the measures set out at section 8.3(3) of the Act and clause 8.1 of the Regulation.

“**Parties**” means the parties listed at Schedule 7.

“**Proponent**” means Riverview Projects (ACT) Pty Ltd ACN 165 870 539 of Unit 3, 28 Bougainville Street, Manuka ACT 2603 in its capacity as agent for and on behalf of the West Belconnen Joint Venture Participants (severally but not jointly) in accordance with their respective participating interests in the West Belconnen Joint Venture

“**Regulation**” means the *Biodiversity Conservation Regulation 2017* (NSW)

**“Serious and Irreversible Impacts”** has the same meaning given in section 8.8(1) of the Act.

**“Stage”** means each Indicative Development Stage as identified in the map at Schedule 5).

**“Subdivision Works Certificate”** means a certificate issued in accordance with s 6.13 of the Environmental Planning and Assessment Act 1979 that authorises physical activity to be carried out in connection with a subdivision.

**“West Belconnen Joint Venture”** means the unincorporated joint venture of that name between the West Belconnen Joint Venture Participants. **“West Belconnen Joint Venture Participants”** means:

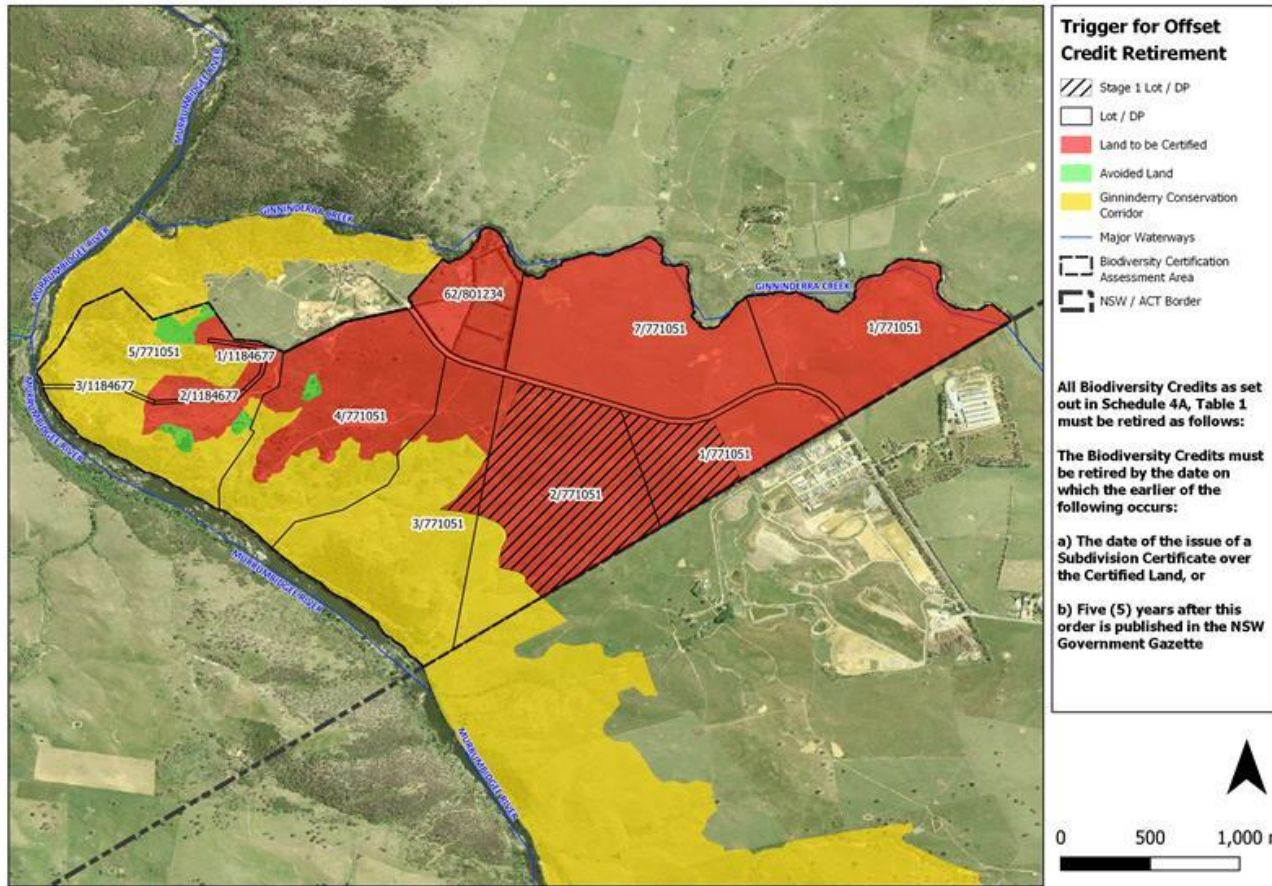
- (a) the Australian Capital Territory Government, holding a 60% participating interest in the West Belconnen Joint Venture; and
- (b) Riverview Developments (ACT) Pty Limited ABN 34 165 870 557, holding a 40% participating interest in the West Belconnen Joint Venture,

and their respective successors and permitted assigns.

**Schedule 1 – Description of the Certified Land**

<b>Lots within deposited plans</b>		
<b>DP Number</b>	<b>Lot</b>	<b>Part or Entire Lot</b>
771051	1	Entire
771051	2	Part
771051	3	Part
771051	4	Part
771051	5	Part
1184677	1	Entire
1184677	2	Entire
1184677	3	Entire
771051	7	Entire
801234	62	Entire

**Schedule 2 – Map of the Certified Land**



**Commented [TW1]:** This is not a very helpful map. The map should help clarify what parts of the lots listed above are to be certified. Ideally the map would include lot boundaries and identifiers, the area to be certified and the land to be avoided. We do not need to include the ACT side at all.

**Commented [RS2]:** I recommend using a different colour for the NSW/ACT Border, it's just a bit too similar to the Biodiversity Certification Assessment Area.

Also, probably go a tad darker in the green to distinguish it more from the yellow.

### Schedule 3 – Approved Conservation Measures

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The Approved Conservation Measures are:

- a) The retirement of the Biodiversity Credits set out at Schedule 4A, Table 1.

### Schedule 4 – Other Approved Measures

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The Other Approved Measures are measures to avoid and minimise the impacts on biodiversity values and are:

#### a) Implementation of a tree retention plan for each stage of the development

The Proponent agrees to:

- (i) Prepare a draft tree retention plan for the Certified Land for each Stage (as identified in the map at Schedule 5),
- (ii) submit the relevant draft tree retention plan to the Department for approval at least six (6) months prior to the issue of the Subdivision Works Certificate for each Stage.
- (iii) make changes to the draft tree retention plan for the Certified Land as requested by the Department, and
- (iv) not commence construction on the Stage until the draft tree retention plan for the Stage is approved in writing by the Department.

#### (b) Preparation of a biodiversity management plan

The Proponent agrees to:

- (i) Prepare a draft Biodiversity Management Plan to apply to the Certified Land to relocate loose rocks that form the habitat of the *Aprasia parapulchella* / Pink-tailed Legless Lizard (*Fauna*) from the Certified Land to the Avoided Land, and
- (ii) submit a draft Biodiversity Management Plan to the Department for approval at least six (6) months prior to the issue of the Subdivision Works Certificate.

The Department will, in good faith, make all reasonable attempts to approve the draft Biodiversity Management Plan within three (3) months of the draft Biodiversity Management Plan being submitted to the Department. If the draft Biodiversity Management Plan is not approved, the Department will provide reasons why it is not approved.

#### (c) Requirements as to the timing of implementation of Biodiversity Credits

The Proponent agrees to implement the retirement of Biodiversity Credits in accordance with Schedule 4A of this Order.

### Schedule 4A – Timing and Implementation of Credits

**Commented [JN3]:** The proponent could satisfy the requirement to prepare a BMP for the certified land (in the Order) and avoided land (in the BCA) by preparing one BMP that applies to both lands.

**Commented [NH4]:** To be consistent with the reports and credit retirement

**Commented [AT5R4]:** @Nicola Hargraves - man I checked several places and only in bionet is it called the pink tailed legless lizard

**Commented [AT6R4]:** So I am sorry I didn't realise it was called legless in the BAM I will change it back again sorry.....

- a) All Biodiversity Credits as set out in Schedule 4A, Table 1 must be retired as follows:
- i) by the date on which the earlier of the following occurs:
    - a. the date of the issue of a Subdivision Certificate over the Certified Land, or
    - b. five (5) years after this order is published in the NSW Government Gazette.
- b) Proof of record of the retirement of Biodiversity Credits must be provided by the Proponent to the Minister in writing within fourteen (14) days after retirement.

**Table 1: Biodiversity Credits to be retired by the Proponent**

Stage Name for the purpose of this Order (see Figure 1)	Ecosystem Credits	Species Credits	Total credits (Ecosystem and Species credits combined)
Stage 1	208 PCT1093	Pink-tailed Legless Lizard 37.00	
	6 PCT1330	Key's Matchstick Grasshopper 138	
<b>Totals</b>	<b>214</b>	<b>175</b>	<b>389</b>

**Commented [TW7]:** We have no view on what the appropriate trigger for retirement of credits should be except that it should be sufficiently clear and precede the realisation of impacts.

We would recommend at least specifying over what land a subdivision certificate is to apply to to improve clarity. 'the date of issue of a subdivision certificate' is extremely vague.

We have recommended deleting the phrase 'stage 1' as it is a little misleading and implies multiple stages.

**Commented [TW8]:** We can't agree to the Stage 1 trigger being the 'latter of the two'. This is for two reasons:

1. because if 5 years is the latter then impacts could be realised after subdivision is approved but before credits are retired.
2. They may never receive subdivision certification in a form envisaged by this condition meaning no credit retirement would ever be required under the certification - i.e. it lacks certainty.

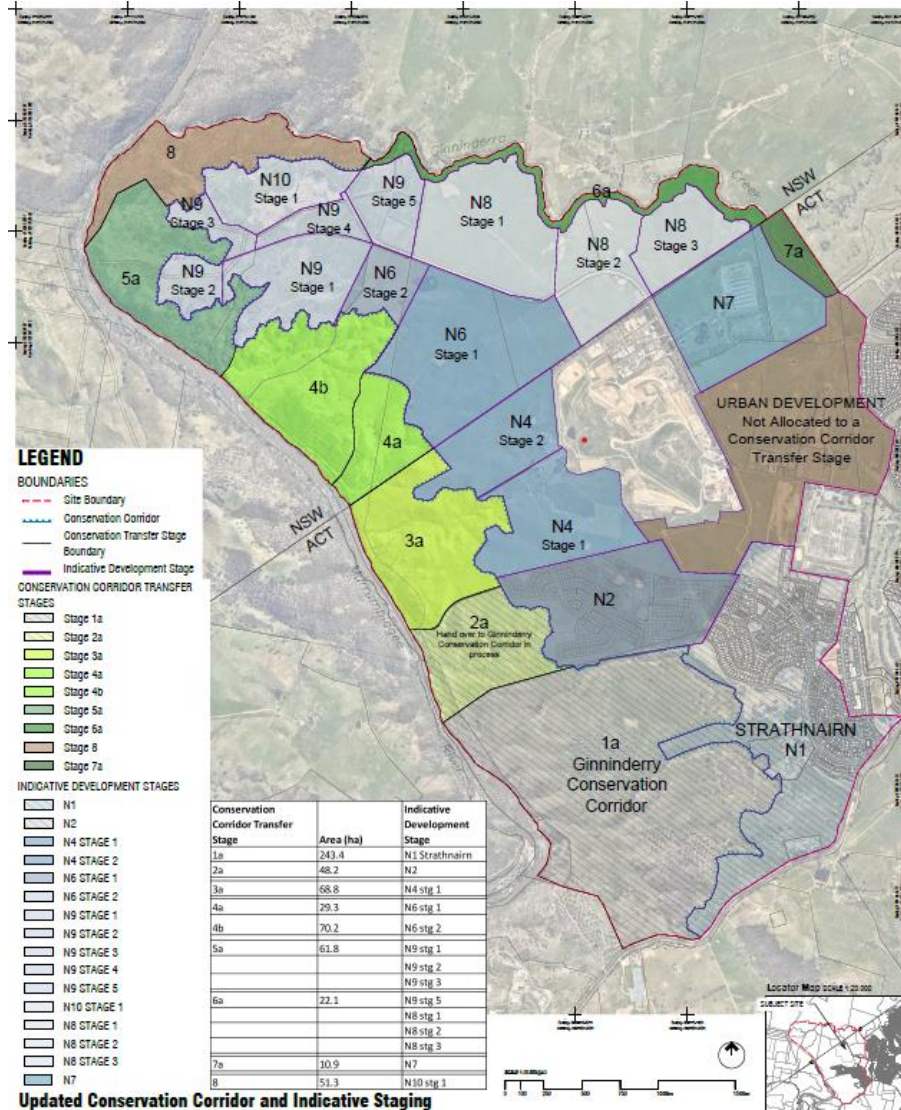
We advise keeping the original drafting. On this basis we have made it 'the earlier of' the two options.

**Commented [AT9]:** Please check this timing- I think we decided on sub division construction certificate?

**Commented [RS10]:** I think the agreement was that the credit retirement won't be staged, rather the entire credit obligation will be retired by issue of the Sub Cert for Stage 1.

**Commented [TW11R10]:** I think this is a different way of phrasing the same thing. By 'staged' we mean the credit retirement obligations won't come into force until some prerequisite has been met.

### Schedule 5 – Indicative Development Staging Map for tree retention plan submission



Commented [AT12]: Do we need this map? As I think the first map outlines when the credits need to be reited doesn't it?



**Schedule 7 – Parties to the biodiversity certification**

Party name	ACN/ABN (if relevant)
Riverview Projects (ACT) Pty Limited of Unit 3, 28 Bougainville Street, Manuka ACT 2603 in its capacity as agent for and on behalf of the West Belconnen Joint Venture Participants (severally but not jointly) in accordance with their respective participating interests in the West Belconnen Joint Venture.	ABN 30 165 870 539
Reid and Stevens Pty Limited	ABN 54 008 445 494
Sylvia Susanne Sciberras	
Suburban Land agency	ABN 27 105 505 367
Gary Barrett Armitage and Edward James Shaw as tenants in common in equal shares	