

Public Place Names (Gungahlin District) Amendment Determination 2016

Disallowable instrument DI2016–269

made under the

Public Place Names Act 1989, s 3 (Minister to determine names)

EXPLANATORY STATEMENT

Overview

Background

The *Public Place Names Act 1989* (the Act) sets out the process and criteria for the naming of divisions and public places. A division in relation to land means a division under the *Districts Act 2002*, section 6. The formal naming under the Act is as a division but most people would know this naming as a suburb.

Section 3 of the Act gives the Minister the power to determine the name of a division or public place. The determination is a disallowable instrument and as such must be notified in the ACT Legislation Register.

Section 46 of the *Legislation Act 2001* (Legislation Act) specifies that power given under an Act to make an instrument includes the power to amend or repeal the instrument.

The Amendment

This instrument amends the *Public Place Names (Gungahlin) Determination 1991* as notified on 18 October 1991 in DI1991-96. The purpose of this amendment is to revoke the division name ‘Kinlyside’. The Division of Kinlyside in the District of Gungahlin was named in 1991 to commemorate the legacy of local pioneer Mr George Kendall Kinlyside (1877-1945).

In 2013 the ‘Gungahlin Strategic Assessment Biodiversity Plan’ was approved to enable the ACT Government to complete residential development in Gungahlin and also protect important habitat. This decision means that the proposed development of the Division of Kinlyside is not proceeding. In 2014 the Territory Plan was varied in this location to Public Land (Overlay Zone Pc: Nature Reserve) to provide for the conservation of listed ecological communities and threatened species. The Public Land is known as the ‘Kinlyside Nature Reserve’.

The revocation of the Kinlyside division name will remove the name from the ACT Cadastre. It is intended that once the reserve is declared open to the public a recommendation will be submitted to the Minister to determine the public place name under the provisions of the *Public Place Names Act 1989*.

Consultation

The family of George Kendall Kinlyside has been consulted about the amendment to revoke the division name 'Kinlyside'.

Regulatory Impact Statement (RIS)

The *Legislation Act 2001* (Legislation Act) requires a RIS for regulations and disallowable instruments subject to specified exceptions. In this case, a RIS is not required because the amendment does not impose any appreciable costs on the community or part of the community (s 34(1) of the Legislation Act). Further, a RIS is also not required because while the amendment of a division name is culturally and socially significant it does not adversely affect rights or impose liabilities on a person (s 36(1)(b) of the Legislation Act).

Human Rights

Section 12 of the *Human Rights Act 2004* creates a right to privacy and reputation. Conceivably, the naming of a place has the potential to infringe the right to privacy and reputation of a person after whom a place is named. In this case the process to revoke a division name ensures that this right is not infringed and that only appropriate information is included in a determination. This process includes the consultation described above.

Delegation

This determination is made by a delegate of the Minister. The Minister has delegated the power under section 3 of the Act to name a division or public place to the Director-General of the Environment and Planning Directorate and other senior officers within the Directorate, refer to the *Legislation (Environment and Planning Directorate) Delegation 2016 (No 2)*, notifiable instrument NI2016-289.

Status of this Explanatory Statement

This explanatory statement relates to the *Public Place Names (Gungahlin District) Amendment Determination 2016* as made by the delegate of the Minister and presented to the ACT Legislative Assembly. It has been prepared in order to assist the reader of the disallowable instrument. It does not form part of the disallowable instrument and has not been endorsed by the Assembly.

Clause Notes

Clause 1 – Name of Instrument

This clause names the instrument.

Clause 2 – Commencement

This clause provides for the commencement of the instrument.

Clause 3 – Amendment of Division Name

This clause amends the division name as specified in the schedule.